UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/44/960
1 July 1990
ENGLISH
ORIGINAL: ARABIC/ENGLISH/
FRENCH/RUSSIAN/
SPANISH

Forty-fourth session
Agenda item 28

POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa

Report of the Secretary-General

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I. INTRODUCTION

1. At its sixteenth special session, on 14 December 1989, the General Assembly adopted the Declaration on Apartheid and its Destructive Consequences in Southern Africa (resolution S-16/1) (annex VII). The Declaration, inter alia, encouraged the people of South Africa to join together to negotiate an end to the apartheid system and agree on all the measures that are necessary to transform their country into a non-racial democracy. The Declaration dealt with fundamental principles for a new constitutional order (para. 3), with the creation of a climate for negotiations (paras. 5-7), with guidelines to the process of negotiations (para. 8) and with a programme of action in pursuance of the objectives of the Declaration (para. 9).

2. In paragraph 10 of the Declaration, the General Assembly requested the Secretary-General to transmit copies of the Declaration to the South African Government and the representatives of the people of South Africa, and to prepare a report on the progress made in the implementation of the Declaration and submit it to the Assembly by 1 July 1990.

3. Prior to the adoption of the Declaration, on 7 December 1989, the Minister for Foreign Affairs of the Republic of South Africa addressed a letter to the Secretary-General in which he outlined the position of the Government of South Africa relating to the draft declaration then under consideration (annex III).

4. Pursuant to paragraph 10 of the Declaration, on 12 January 1990, the Secretary-General personally transmitted to the Permanent Representative of South Africa to the United Nations a copy of the Declaration. He also transmitted copies of the Declaration to the Permanent Observers of the African National Congress and the Pan Africanist Congress of Azania on 7 February 1990. In addition, the text of the Declaration was transmitted to the Permanent Representatives of Member States by a note verbale dated 7 March 1990, requesting them to bring the Declaration to the attention of their Governments and to provide the Secretary-General with information on the action which their Governments had taken in respect to provisions of the Declaration that concerned them. The replies received to date from Member States are reproduced in annex II. In addition, the Secretary-General of the Organization of African Unity provided a copy of the report of the Monitoring Group of the OAU Ad Hoc Committee on Southern Africa, which is being issued separately as a document of the General Assembly.

5. Since it was important that the report be as factual as possible, the Secretary-General, while in Windhoek on 20 March 1990, sought the agreement of the State President of South Africa for a team of senior United Nations officials to visit the Republic at an appropriate date. While agreeing to this suggestion, the State President made it clear that this was without prejudice to the position of his Government on the question of non-interference in the internal affairs of South Africa.

6. On the basis of this understanding, the Secretary-General arranged for a United Nations team to visit South Africa from 9 to 19 June. The Team was led by

Mr. Abdulrahim A. Farah, Under-Secretary-General for Special Political Questions, Regional Co-operation, Decolonization and Trusteeship. He was accompanied by Mr. Sotirios Mousouris, Assistant Secretary-General for the Centre Against *Apartheid*, and four other senior officials. The Team was instructed to obtain firsthand information on the latest developments in the country and to meet with members of the Government and with representatives of political parties and movements and concerned organizations in order to gather factual information on recent measures taken and proposals made for bringing about an end to the *apartheid* system. The report of the Team is contained in annex I.

7. On the eve of the Team's arrival in South Africa, the Minister for Foreign Affairs of the Republic of South Africa addressed to the Secretary-General a letter concerning the Team's visit in which he reiterated his Government's position in regard to the Declaration as well as on the question of non-interference (annex V).

8. During the period following the adoption of the Declaration, and in addition to his meeting with President de Klerk, the Secretary-General had the opportunity, on a number of occasions, of discussing with the Permanent Representative of South Africa to the United Nations developments relating to the situation in South Africa. The Secretary-General also met, on two occasions, with Mr. Nelson Mandela, Deputy President of the African National Congress. The first meeting took place in Windhoek last March, and the second one was held in New York on the occasion of Mr. Mandela's visit to United Nations Headquarters on 22 June 1990 (for a text of Mr. Mandela's Statement, see annex VI). In his meetings with President de Klerk, the Secretary-General was informed of the new policy that the South African Government had begun to implement for the dismantlement of the *apartheid* system (see annex IV). Mr. Mandela also provided the Secretary-General with an assessment of the situation and the position of his movement on some of the salient features covered by the Declaration.

9. The information assembled in the report of the United Nations team that visited South Africa, taken together with that provided by Member States, as contained in annexes I and II respectively, presents a comprehensive picture of developments against which the General Assembly will be able to measure progress achieved so far in the implementation of the Declaration.

II. OBSERVATIONS

10. The Secretary-General has been greatly encouraged by the positive developments that have taken place within South Africa since the beginning of this year. The bold and courageous policy to which President de Klerk has committed his Government opens up distinct possibilities for the dismantling of the *apartheid* system. Equally encouraging and statesmanlike has been the vision and forebearance displayed by the black leadership which, despite long years of injustice and oppression, has renewed its commitment to a peaceful process for ending *apartheid* and building a non-racial and democratic society.

11. The fact that the Team was able to meet with whom it wished, travel where it desired, and receive freely the views of all on political issues arising from the

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policy of apartheid, demonstrates, by itself, a significant change in the political climate.

12. Of the measures required by the Declaration on Apartheid and its Destructive Consequences in Southern Africa to create a climate for free political activity, the measure relating to the lifting of the ban on political parties and movements has been implemented in full. Other measures have been implemented in part. While it is evident that an important process has been set in motion, many believe that the Government should implement all measures in their totality to create the appropriate atmosphere.

13. Parallel with the need to establish an appropriate climate for the negotiations is the urgent requirement to end the violence. The issue of violence, not least in Natal, urgently needs to be addressed at the highest level since, if it is allowed to continue unrestrained, the consequences could well present serious difficulties for the political process. The Secretary-General therefore appeals to all parties to do whatever is necessary to end the violence and to work together to build a peaceful South Africa.

14. It is quite clear from the report of the Team that a substantial body of public opinion is anxious to see that the process for the dismantlement of the apartheid system be accelerated.

15. Some of the data in the report illustrate vividly the grave social injustices that have been inflicted by apartheid on the black population. The Secretary-General would strongly endorse any measures aimed at redressing the social and economic imbalances, particularly in the area of housing, education, employment and health. Such measures would go a long way towards addressing effectively glaring inequities and instilling public confidence in the democratic process and in national institutions.

16. The Secretary-General was requested by the General Assembly to submit a report on the progress made in the implementation of the Declaration on Apartheid within six months of its adoption. As the report of the United Nations Team shows, the political process towards the dismantlement of the apartheid system is still at an early stage. Political parties and movements are in the first phases of developing their responses to the negotiating process. For this reason the report does not comment in detail on some of the major issues covered by the Declaration, such as those envisaged in paragraph 8 of that document concerning the mechanisms for drafting a constitution, as well as the principles of the constitution itself.

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ANNEX I

Report of the Mission dispatched to South Africa by the Secretary-General

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I. PREFACE

A. Terms of reference

1. On 4 June 1990, the Secretary-General announced his decision to send a team of senior United Nations officials to South Africa to meet with members of the South African Government, with representatives of political parties and movements and with other concerned organizations on the latest developments relating to the question of *apartheid*. The Team was instructed to obtain factual information on the various measures taken and proposals made for bringing about a speedy end to the *apartheid* system and to do so within the framework of the Declaration on *Apartheid* and its Destructive Consequences in Southern Africa (resolution S-16/1).

B. Composition of the Team

2. Under-Secretary-General Abdulrahim A. Farah, led the Team. He was accompanied by Assistant Secretary-General Sotirios Mousouris, and the following senior United Nations officials: Mr. James Simpson, Legal Consultant; Dr. Herschelle Challenor, Co-ordinator, World Decade for Cultural Development, United Nations Educational, Scientific and Cultural Organization; Mr. Leonard T. Kapungu, Chief, Africa and Asia Data Unit, Office of the Secretary-General for Research and the Collection of Information; and Mr. Thomas McCarthy, Chief, Research, Studies and Prevention of Discrimination Section, Centre for Human Rights. Support services were provided by: Ms. Aracelly Santana, Senior Political Affairs Officer; Mr. Michael Moller, Special Assistant; Ms. Anastasiya Delenda, Administrative Secretary; and Ms. Adelia Ocampo, Secretary.

C. Itinerary and list of interlocutors

3. The Team arrived in Cape Town on 9 June on the first stage of its mission. In addition to Cape Town, it also visited Durban, Pietermaritzburg, Johannesburg and Pretoria. The Team held 55 meetings in the course of its 10-day stay and left South Africa the evening of 19 June (see appendix I).

4. The Team met with members of the Government as well as with a large number of organizations representing a wide cross-section of South African opinion. Apart from the Government, 39 organizations and professional groups responded positively to the Team's invitation. Only one party declined to meet with the Team, namely, the Conservative Party, stating that the Team's presence in South Africa was a "blatant interference" in the internal affairs of the country. The Labour Party did not reply to the Team's invitation. To enable the Team to have a better appreciation of the position of the Conservative Party on relevant national issues, the Government provided it with extracts from statements made in the South African Parliament by party members.

D. Programme of work

5. The Team was conscious of the fact that its visit was taking place at a relatively early stage of the political process. For this reason, it decided to concentrate its attention on four specific areas, namely, the progress made towards helping to create a climate conducive to negotiations (sect. III), the creation of an atmosphere free of violence (sect. IV), the process for negotiating a new constitutional order (sect. V), and matters enhancing or obstructing the process of ending apartheid (sect. VI). To facilitate the measurement of progress towards the dismantlement of apartheid, the Team considered it essential to use as a starting point the situation as it existed in South Africa at the time of the adoption of the Declaration (sect. II).

6. In all areas, the Team obtained the oral views of the Government, as well as of political parties and movements and other concerned organizations. In many cases oral views were supplemented by written submissions and background documentation.

7. Given the nature of its mandate and the limited time available, the Team confined its approach to the collection and the reporting of information as presented to it and did not attempt to make value judgments on the issues raised. It was not its purpose to undertake independent research of the data nor to reconcile any conflicting information presented to the Team.

II. BACKGROUND

8. This section reviews briefly major political developments in South Africa during 1989 as well as the situation that obtained at the time that the Declaration on Apartheid and its Destructive Consequences in Southern Africa was adopted. Such information provides a context in which to assess the progress that has been made since December 1989 in the implementation of the provisions of the Declaration.

A. Developments in 1989

9. A series of developments, both within and outside South Africa, in 1989, set the scene for the beginning of a process which held promise for the elimination of apartheid through negotiations. Improvements in the international climate facilitating the peaceful resolution of conflicts were manifested in the southern Africa region by agreements that led to the independence of Namibia. Within South Africa, actions by anti-apartheid forces ranged from new forms of resistance to renewed demands for a negotiated end to apartheid and a new constitutional order. Concurrent with those developments, there was a change of thinking within the ruling party in South Africa towards a new policy which acknowledged the failure of apartheid and the need for constitutional change.

10. Among the notable challenges to the apartheid system during early 1989, was the nationwide hunger strike by more than 700 detainees. This strike had the effect of bringing to national and international attention the situation of large

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numbers of detainees who were being held without trial. The hunger strike marked a resurgence of organized opposition to apartheid, much of which was restricted under the four-year-old state of emergency and of the security laws. A subsequent campaign of mass defiance of apartheid laws led by the Mass Democratic Movement (MDM) attempted to render them ineffectual. The socio-economic inequalities created by apartheid and the political disenfranchisement of the black population were the focus of the Campaign.

11. Civil disobedience involved hundreds of black people seeking treatment at hospitals or moving onto beaches and other facilities reserved exclusively for the white population. In industry, black mineworkers challenged the privileges accorded to white miners. The non-racial trade unions engaged in joint actions to have reversed the regressive provisions of the Labour Relations Amendment Act of 1988. Restriction orders on individuals and organizations became the object of defiance. In the same vein, urban squatters and rural dwellers defied Government attempts to remove them to the homelands. In cities such as Johannesburg protests were organized to highlight the housing crisis. The Defiance Campaign also reached the schools, where the boycott of classes aimed to show the consequences of the unequal and inferior education provided for the black population.

12. At the government level, a new constitutional dispensation for all South Africans became the subject of renewed discussion following the publication of the South African Law Commission Report in March. The Law Commission had been instructed by the Minister of Justice, to investigate and make recommendations on the definition and protection of group rights in the context of South African constitutional issues. In its report, the Law Commission called for the adoption of a Bill of Rights in a new constitution and urged the Government "to purge the statute books" of all discriminatory laws. It recommended that a new constitution include universal franchise.

13. In June 1989 the National Party unveiled its five-year Plan of Action outlining the key principles for a new South Africa. According to the Plan, which became the National Party's election platform, South Africa should be a democracy in which no group dominates or is dominated; the independence of the judiciary is upheld; civilized norms apply; free enterprise is the basis of the economy and there is safety and harmony among all groups. The Plan laid emphasis on the need for negotiations with representative leaders in order to devise a new constitutional dispensation. A Bill of Rights was considered a possibility in a future constitution.

14. Elections to the racially segregated tri-cameral Parliament took place on 6 September in an atmosphere of violence and protests against the continued disenfranchisement of the black population. In the elections to the House of Parliament the governing National Party obtained a majority again, though somewhat reduced. Out of the 165 seats, the National Party obtained 93 seats, the Conservative Party 39 and the newly-formed Democratic Party (constituted by the merger of the Progressive Federal Party, the New Democratic Movement and the Independent Party) won 33 seats. The Government interpreted the election as a "clear mandate for the National Party's policy of orderly reform". The search for a resolution of the political impasse in the country was enhanced by the election of Frederik Willem de Klerk as State President in September.

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15. Following his election, President de Klerk outlined his programme for change, speaking of "bridging the gap of distrust, suspicion and fear among South Africans, launching a great *indaba* or negotiating forum and developing a new constitution allowing individuals to participate without domination" of any group over another. Among his first measures, as State President, was the release of eight long-term political prisoners. In addition, permission was granted for several mass gatherings. The length of the national service was reduced from two years to one year. The military-controlled National Management System, a nationwide security network, was replaced by a co-ordinating system under civilian control.

16. Earlier in 1989, the ANC began a process of wide consultations with the anti-*apartheid* opposition within and outside South Africa concerning the politico-economic future of the country. As a basis for discussions, the ANC used its 1987 Constitutional Guidelines, which outlined its views of South Africa as a non-racial, united and democratic society. By mid-1989 the ANC noted that a "conjuncture of circumstances" existed that was favourable to ending *apartheid* through peaceful negotiations. The Organization of African Unity (OAU) endorsed the principle of negotiations between the Government and the South African liberation movements when its *Ad-Hoc* Committee on Southern Africa adopted the Declaration on the Question of South Africa in Harare on 21 August 1989. This Declaration was later endorsed by the Movement of Non-Aligned Countries.

17. The Conference for a Democratic Future, which took place in South Africa on 9 December 1989 with the participation of representatives from more than 2,000 organizations, resolved to adopt the Harare Declaration and to call for a Constituent Assembly established on a non-racial basis representing all the people of South Africa in order to draw up a new constitution. The Conference adopted a number of resolutions varying from the issue of negotiations to education, health, labour and environment.

18. At the United Nations, a special session of the General Assembly on *apartheid* and its destructive consequences in southern Africa, was held from 12 to 14 December 1989. At that session, the Assembly adopted by consensus a Declaration in which it encouraged the people of South Africa "to join together to negotiate an end to the *apartheid* system and agree on all the measures that are necessary to transform their country into a non-racial democracy"; expressed the view that a new constitutional order, determined by the people of South Africa, should be based on the Charter of the United Nations and on the Universal Declaration of Human Rights; suggested guidelines for the process of negotiations and for the drawing up of a new constitution outlining a number of steps that the South African Government should take in order to create the necessary climate for negotiations; established a Programme of Action regarding the responsibilities of the international community and called for the return of South Africa to the fold of the United Nations upon adoption of a new constitution.

19. Prior to the special session of the General Assembly, the South African Government stated that it considered action by the Assembly as an undue interference in the domestic affairs of a Member State (see annex III).

20. Towards the end of the year, President de Klerk held preliminary consultations on the country's political future with Mr. Nelson Mandela, still in prison, and other anti-apartheid leaders. The President also announced that the Government was considering a series of measures whose application would tend to improve the climate for constitutional negotiations.

B. Basic apartheid laws in force at the end of 1989

21. By the end of 1989 racial laws designed to regulate the life of the black population and to keep races apart, known as pillars of apartheid, were in force and the administrative structures to implement them remained. The provisions of the state of emergency, of the Internal Security Act and of other restrictive legislation were also still in force. Below is a brief description of the basic legislative structure of apartheid, namely the pillars of apartheid.

22. The Population Registration Act, No. 30 of 1950 is the law basic to the system of apartheid. It establishes a system of race classification according to which the population is identified and classified from birth into four racial groups namely Whites, Coloureds (persons of mixed origin), Asians (mostly Indians) and Africans, although the last three consider themselves Blacks. Racial classification determines each individual's destiny in terms of franchise, mobility, residential rights and social benefits and services provided by the State.

23. The Native Land Act of 1913 and the Development Trust and Land Act of 1936 and their subsequent amendments establish that 13.6 per cent of the country's territory be reserved for the black population, which represents 75 per cent of the population. The 13 per cent is divided into 10 separate and non-contiguous geographical areas called bantustans, homelands or national states. Asians and Coloureds must live in segregated areas in the territory reserved for Whites. The black population is denied ownership of land outside these territories. In recent years these statutes have become untenable due to the refusal of millions of blacks to be removed to the homelands and to their determination to settle in urban areas. Limited freehold housing rights are now allowed in urban areas. These laws, nevertheless, empower the Government to remove the black population from either rural or urban areas if such areas are designated for Whites. Since 1950 an estimated 4 million Blacks have been removed from white areas to areas set aside for the black population. Over 3 million more are still threatened with removals and evictions. In addition, millions of black squatters live in "informal settlements" around major cities. According to published sources in 1987, in Durban alone there are more than 1,700,000 squatters and in the Pretoria-Witwatersrand area there are between 1,600,000 and 2,400,000 squatters.

24. The Group Areas Act of 1966 (first promulgated in 1950) and its subsequent amendments establish control throughout South Africa over inter-racial property transactions and inter-racial changes of occupation. In essence, the Act empowers the Government to declare areas for use, whether for housing, education, or industrial development, strictly according to race. Heavy penalties are provided for violations. Legislation introduced in 1989, namely the Prevention of Illegal Squatting Act, gives authorities new powers to enforce residential segregation

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without interference from the courts. The provisions of the Group Areas Act affect the black population also in terms of the effects of the abolition of other racial laws, notably the Prohibition of Mixed Marriages Act, No. 55 of 1949. Even though the Mixed Marriages Act has been abolished, its positive effects have been undermined because "mixed couples" cannot live legally in any group area without reclassification of a partner or a permit to live in the group area of one of the partners. A similar difficulty arises concerning the education of a child born to a "mixed couple". In recent years, the urban housing crisis and the growing poverty in rural areas, in addition to defiance of the law, have made the provisions of the Group Areas Act unworkable. The enforcement of the law has also been less strict.

25. The Reservation of Separate Amenities Act, No. 49 of 1953 provided that any person who was in charge of or had control of any public premises or public vehicle might, whenever it was deemed expedient, reserve such premises or vehicle or any portion thereof for the exclusive use of persons belonging to a particular race or class. The term "public premises" included any land enclosure, building, structure, hall, room, office or convenience to which the public had access, whether on the payment of any admission fee or not. Wilful contravention of the Act was an offence, punishable with a fine or imprisonment or both. Subsequent amendments to the Act provided for exemptions, i.e. facilities which were deemed for "international" use or for foreign officials and their families. As in the case of the Group Areas Act, this Act became untenable in practice. In the past two years, Johannesburg and Cape Town passed ordinances providing for the racial integration of certain facilities, although resistance to such integration efforts has developed in different areas of the country.

26. An important aspect of _apartheid_ legislation concerns the provision of education for the black population. According to this legislation, all public education is segregated according to the races and the curriculum is devised along racial lines. Education is free and compulsory for white children. Public sources indicate that the Government spends an average of 3,082.00 rand on the education of every white child and 764.73 rand on that of every black child. There are at present 17 education departments.

27. While the above laws constitute the statutory basis upon which _apartheid_ was erected, the Republic of South Africa Constitution Act, No. 110 of 1983, which established a racially segregated tri-cameral Parliament for Whites, Coloureds and Asians, specifically excludes the black population from the vote for central government. This exclusion is reinforced by the provisions of the Homeland Citizenship Act, which was introduced in 1970. The Act creates independent homelands although their status as such is recognized only by South Africa. To date, the homelands of Transkei, Bophuthatswana, Venda and Ciskei have been declared independent. As a consequence, millions of blacks have been declared citizens of these homelands and have been deprived of their South African citizenship. It is recognized that the absence of the franchise for South Africa's 27 million blacks is the most fundamental issue to be addressed in a process of negotiations.

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C. Some measures announced by the Government in 1990

28. This section outlines some of the measures announced by the Government since the beginning of 1990 until the arrival of the United Nations Team in South Africa. It is based on information drawn from government and other sources.

29. A more detailed discussion of these measures, as well as the views of political movements, parties and organizations concerning the adequacy and implementation of these measures, is presented in the following relevant chapters of this report.

30. During an address given at the opening of the Parliament session on 2 February 1990, President de Klerk announced several measures towards reform, declaring that his final aim was a totally new and just constitutional dispensation in which every inhabitant would enjoy equal rights, treatment and opportunity in every sphere of endeavour - constitutional, social and economic. These measures included the following: the promised release of Nelson Mandela; the release of certain political prisoners; the suspension of the death penalty; the lifting of the banning order on the ANC, PAC and the South African Communist Party (SACP), as well as of the restrictions on 33 organizations; the repeal of certain aspects of the emergency regulations; the lifting of all restriction orders on individuals; and the limitations established on the period of detention under the state of emergency.

31. Since President de Klerk's address, the Government has undertaken other initiatives. The budget for the new fiscal year displays a shift of priorities, as expenditure on social welfare (comprising education, health and housing) will increase while defence spending will decrease in real terms. A 3 billion rand fund has been created to reduce a variety of backlogs in housing, education, training, literacy and basic health.

32. In April, the Criminal Law Amendment Bill was tabled in Parliament providing the Supreme Court with discretionary powers to impose death sentence in appropriate cases or to grant automatic right of appeal to any person so sentenced.

33. In May the Minister of National Health and Population Development, announced the end of racial segregation in hospitals. The Government is reportedly developing a system for the implementation of this measure which at present applies to public hospitals only. Also, the Indemnity Act, No. 35 of 1990 was adopted granting temporary immunity or permanent indemnity against arrest or prosecution. Indemnity was initially granted for three months, until 19 August 1990.

34. In May, the Minister of Constitutional Development, in his capacity as Acting President, introduced in Parliament a 12-point plan on the constitutional future of the country. In this blueprint it is stated that minorities, because of their particular values and aspirations, should have a special voice in the new constitutional dispensation. The plan includes State support for racially separate schools, the holding of regular elections, a bill of individual human rights, the preservation of the free market system and the existence of an independent judiciary.

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35. On 7 June, the State President announced that the country-wide state of emergency would not be reimposed, although it would remain in force in the province of Natal, including the homeland of KwaZulu. In June also the Parliament removed one of the pillars of apartheid law when it adopted the Discriminatory Legislation Regarding Public Amenities Repeal Act, which abolished the Reservation of Separate Amenities Act, No. 49 of 1953. The measure will come into effect in October 1990.

36. The Government also appointed several independent commissions of inquiry to investigate allegations of misconduct by the security forces. The Harms Commission is investigating accusations that the South African Defence Force operates hit squads against apartheid opponents within and outside South Africa. In this connection, the activities of the Civil Co-operation Bureau, a military unit allegedly involved in assassinations, are the subject of this inquiry. The Hiemstra Commission of Inquiry is investigating allegations that the Johannesburg City Council operated a spy network directed at the apartheid opposition. Also, a judicial investigation is being conducted into the events of 26 March 1990 in the township of Sebokeng in the southern Transvaal province where police fired at demonstrators, killing at least 12 persons and wounding nearly 500.

37. From 2 to 4 May the Government and the ANC held their first talks at Groote Schuur in Cape Town. The talks seek to remove obstacles to a process of negotiations. A minute was adopted (see A/45/268) which established a working group to address the issue of the release of political prisoners and the granting of immunity in respect of political offences to those inside and outside South Africa (a measure which was considered on an urgent basis for members of the ANC's National Executive Committee).

38. The Government undertook to review existing security legislation. Both parties pledged to seek an end to "the existing climate of violence and intimidation from whatever quarter" and reiterated their "commitment to stability and to a peaceful process of negotiations". As scheduled, the working group presented a confidential report to the parties concerned by 21 May.

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III. PROGRESS MADE TOWARDS CREATING A CLIMATE CONDUCIVE TO NEGOTIATIONS

39. In its Declaration on Apartheid and its Destructive Consequences in Southern Africa of 14 December 1989, the General Assembly referred to an essential need to create a climate for negotiation, and, in that regard, stated that "the present South African régime should, at the least" take the measures described in paragraph 6 of the Declaration. The present section contains information provided by the Government concerning measures it has taken or intends to take relevant to the creation of a climate conducive to negotiations. It also presents the positions and views on these matters of the various political parties and movements and other concerned organizations.

A. Release of all political prisoners and detainees

40. Paragraph 6 (a) of the Declaration calls on the South African Government to "release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them".

Position of the Government

41. The Team was informed by the Minister for Foreign Affairs that, in an announcement made by the State President on 2 February 1990, all persons serving sentences by virtue merely of their membership in previously banned organizations, or for having committed an act which was an offence merely because of the prohibition of the organizations concerned, would be identified and released forthwith. Moreover, the conditions which had been imposed in terms of the security emergency regulations on 374 persons upon their release, were being rescinded with immediate effect, and the regulations which provided for such conditions were likewise being abolished.

42. The Minister for Foreign Affairs also made the following points:

(a) The Government and the ANC had agreed, as reflected in the Groote Schuur Minute of 4 May 1990 (see A/45/268), to establish a joint working group to make recommendations on the definition of political offences in the South African situation; to discuss, in this regard, time scales; and to advise on norms and mechanisms for dealing with the release of political prisoners and the granting of immunity in respect of political offences to those inside and outside South Africa.

(b) The Working Group, including representatives of both the Government and the ANC, submitted its report to the Government and the ANC on 21 May 1990. The State President announced in his speech before Parliament on 7 June 1990 that the Government was ready to implement it. The ANC had indicated that it would provide an answer on 10 July 1990. By agreement the contents of the joint report would remain confidential till both sides had agreed.

(c) The State President also announced on 7 June that, as a gesture, he was releasing 48 prisoners in terms of powers vested in him by the constitution and the Prisons Act. A total of 104 prisoners have been released since 1 February 1990.

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(d) No restrictions have been imposed on any of the released prisoners - with three exceptions where minor conditions were imposed. (One, a foreigner, was deported and requires approval to return; two are required to notify the police if they should leave their district of residence permanently.)

(e) Further developments in the release of prisoners will have to await ANC agreement on the Working Group's report.

(f) The situation concerning detainees is as follows (as of 14 June 1990):

(i) The last 12 prisoners held under the terms of Emergency Regulations were unconditionally released on 8 June 1990 when the state of emergency was lifted. In Natal, where the state of emergency is still in force, 2 persons are still being held.

(ii) In terms of the Internal Security Act:

a. Section 29 (1): 45 persons are detained for questioning;

b. Section 31: 2 persons are in preventive detention (for their own safety or to prevent witnesses absconding).

Position of the national liberation movements

43. The ANC stated that, at the Groote Schuur meeting, its delegation and that of the Government had agreed on the establishment of a working group to make recommendations on the definition of political offences in the South African situation. All persons who could be affected would be considered. The working group would bear in mind experiences gained in Namibia and elsewhere. Moreover, the following offences would receive attention immediately: (a) leaving the country without a valid travel document; and (b) any offences related merely to organizations that were previously prohibited.

44. The ANC considered that relatively few political prisoners had been released. Approximately 3,000 political prisoners remained in prison and this issue had been a matter of intense discussions at the Groote Schuur meeting. The Government seemed concerned only with people who had been arrested for membership of banned organizations or for actions furthering the aims of those organizations. The ANC and the UDF insisted that there were many others outside these categories whom they regarded as political prisoners. The definition of political prisoners, which had been applied in Namibia, would be the correct one to apply to South Africa. It was hoped that agreement would soon be reached with the Government in that regard.

45. The PAC stated that hundreds of political prisoners were still incarcerated, including more than 250 on Robben Island alone. The Government had made the definition of "political prisoners and detainees" a matter for negotiations and it appeared that the release of all prisoners had been made subject to a compromise on that definition. The PAC considered that such an approach had no merit at all. In its view the measures prescribed in paragraph 6 of the Declaration on Apartheid and its Destructive Consequences in Southern Africa were non-negotiable conditions that

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had to be fully met by the Government before negotiations regarding a new constitution could commence.

Position of other organizations

46. Representatives of other organizations and groups, including the Human Rights Commission of South Africa, while concerned by the relatively small numbers involved, were pleased with the releases of prisoners to date; however, there still remain between 2,500 to 3,000 in jails. Several considered the continued incarceration of political prisoners a serious obstacle to negotiations. It was observed that many of those released had already served a large part of their sentence, and most had served more than two thirds of their sentences, which would have automatically qualified them for parole under criminal law. Concerning detention without trial, the Human Rights Commission indicated that between 400 and 500 persons, including children under the age of 18, remained in detention.

47. The Inkatha Movement welcomed the release of political prisoners, including Mr. Nelson Mandela, Mr. Walter Sisulu and other political prisoners, to which, according to Inkatha, it had contributed. Likewise, Inkatha was satisfied that exiles could now return and that organizations were unbanned.

48. The delegates of the International Committee of the Red Cross (ICRC) mentioned that there were three types of prisoners, namely: persons sentenced after trial for security-related offences (the Internal Security Act of 1982, the Treason Act and the Public Safety Act); persons sentenced after a trial on common law charges (public violence, arson, assault, murder, attempted murder, malicious damage to property, illegal gatherings) which were related to unrest situations; and persons detained without trial under the security laws or awaiting trial for common law crimes related to unrest. While ICRC does not have complete records of prisoners and detainees in South Africa, it does possess records of 336 security prisoners and 560 unrest-related prisoners (including 72 people sentenced to death). ICRC, quoting other sources, estimated that there are approximately 400 convicted security prisoners, 1,100 convicted unrest-related prisoners, 1,100 detainees currently on trial (for security and/or unrest-related offences) and 40 detainees held under the Internal Security Act.

B. Lifting of all bans and restrictions on all proscribed and restricted organizations and persons

49. Paragraph 6 (b) of the Declaration calls on the Government to "lift all bans and restrictions on all proscribed and restricted organizations and persons".

Position of the Government

50. According to the Minister for Foreign Affairs no organizations were at present banned, proscribed or restricted. He further stated that no restrictions or conditions were being imposed on any persons released from prison or detention with the exception of minor restrictions on three persons (see para. 42 (d) above).

51. The Minister drew attention to the statement of 2 February 1990 by the State President, in which he announced that:

(a) The prohibition of the ANC, the PAC, the South African Communist Party and a number of subsidiary organizations was being rescinded;

(b) The media emergency regulations and the education emergency regulations were being abolished in their entirety;

(c) The restrictions in terms of the emergency regulations on 33 organizations were being rescinded (those organizations included the National Education Crisis Committee, the South African National Students Congress, the United Democratic Front (UDF), the Congress of South African Trade Unions, and Die Blanke Bevrydingsbeweging van Suid-Afrika);

(d) The emergency regulations on the basis of which restrictions could be imposed on individuals would be abolished with immediate effect.

52. Representatives of the Government, referring to the Foreign Funding Act, said that the purpose of the Act was to regulate the disclosure of the receipt of money from outside the Republic by or for certain organizations and persons, and to provide for matters pertaining thereto. The underlying objective was to ensure that all receipts from a foreign source be utilized for the purpose for which they were intended and was not intended to encroach upon the activities of any organization or person. The influx of money to a reporting organization or person from abroad cannot under the terms of the Act be controlled in any way whatsoever by either the Registrar or the Government, and the Act does not restrict the activities of such organization or person in any way whatsoever.

53. Regarding the listing of persons, representatives of the Government stated that, since 3 February 1990, the names of all persons who were listed have been removed except those convicted of violence or violence-related offences. It is correct that the listing of persons continues, but this has nothing to do with their membership in or the activities of any organization. The only persons who are listed at present are those convicted of certain offences such as terrorism and sabotage. This involves the addition of the names of approximately 15 persons since 3 February 1990. The listing of persons convicted of offences such as terrorism or sabotage is imperative under the existing provisions of the Internal Security Act. In this regard, the Government undertook at the Groote Schuur discussions on 2 to 4 May 1990 to review existing security legislation. The listing of people convicted in terms of the Internal Security Act is one of the provisions under review.

Position of the national liberation movements and other organizations

54. All organizations and groups with whom the Team met agreed that the lifting of the bans and restrictions was the only pre-condition that had been fully met.

55. Concern was expressed by some organizations that, despite the removal of the bans, they were still not able to organize freely. The ANC and the UDF demanded

that they be allowed to enjoy the same freedom to organize as the National Party, stating that without freedom of association the unbanning of organizations would be meaningless. Mention was made by the ANC of the restrictions still placed on certain organizations, such as: prohibitions on the receipt of funds from abroad; restrictions placed on returning members of organizations (under the Indemnity Act, indemnity for a number of cadres was initially granted for three months until 19 August 1990); the listing of some 300 persons in the consolidated list under the Internal Security Act with the effect that they could not legally be quoted in the media; the requirement to obtain prior authorization to hold meetings; and the possibility of members of organizations to be detained at any time under the Internal Security Act. It was pointed out that even though the organizations had been unbanned all these restrictions were enforceable.

56. On 17 April, the leader of the Conservative Party stated in Parliament that the unconditional unbanning of the ANC, the PAC, the South African Communist Party and Umkhonto we Sizwe was in conflict with the categorical assurances given by the former State President and those of the present State President. He was of the view that the legalization of such organizations was absolutely outrageous. These organizations had no intention of establishing democracy in South Africa, nor to share power, but only to seize it. They had not given up the armed struggle, and thus violence would continue in South Africa. Further, these organizations had no consideration at all for the self-determination of other people.

C. Removal of all troops from the townships

57. Paragraph 6 (c) of the Declaration calls on the Government to "remove all troops from the townships".

Position of the Government

58. With regard to the removal of troops from the townships, the Minister for Foreign Affairs stated that, with few exceptions, all troops had been withdrawn except in the Province of Natal and some self-governing territories. In Natal, a state of emergency still exists and troops have been deployed to assist the police in that province. Troops have been deployed in certain other areas at the request of the police authorities. As the ratio of police to population in South Africa was amongst the lowest in the world, currently just under 2 per 1,000, troops were needed to help restore order. The Minister for Foreign Affairs added that the ANC and other organizations who had previously opposed the deployment of troops in townships now publicly accepted the need for the presence of troops in certain areas, under specific conditions. (The Government position on the situation is presented in greater detail in paragraph 64.)

Position of the national liberation movements

59. The ANC indicated that although troops had been technically removed from the townships, except in Natal, they still entered the townships for operational purposes and mounted road-blocks to impede ANC and UDF political action and harass their supporters. Although it was felt that the overall situation had improved,

concern was expressed by the ANC at the continuing presence of troops in Natal, in particular that of the 32nd Battalion, which had served in Angola. They alleged numerous cases of misconduct by those troops.

60. The PAC stated that some troops had been removed from some townships and demanded that they be withdrawn from all townships.

Position of other organizations

61. Some organizations felt there was a continuing need for the presence of troops in Natal. It was claimed that they served as a buffer between the warring groups. Several organizations said that even though troops are not currently stationed inside the townships, they are often called in by the local authorities, and therefore their removal did not have the desired effect. Since violence was increasing in Natal, the Inkatha Movement welcomed the continuation of the state of emergency and the redeployment of troops in the area, both of which would assist in reducing tensions. The troops, in their view, would help the police in the maintenance of law and order. Indeed, Inkatha believed that a larger contingent of police was needed in Natal.

D. The lifting of the state of emergency and the repeal of all legislation, such as the Internal Security Act, designed to circumscribe political activity

62. Paragraph 6 (d) of the Declaration called upon the Government to "end the state of emergency and repeal all legislation, such as the Internal Security Act, designed to circumscribe political activity".

1. State of emergency

Position of the Government

63. The Minister for Foreign Affairs referred the Team to the State President's announcement of 7 June 1990 in which he stated that the general country-wide state of emergency would not be reimposed in South Africa when it lapsed at midnight on 8 June 1990. However, a state of emergency was proclaimed in the province of Natal in view of the escalating violence among the black population in that province involving the destruction of human life and property, which had assumed shocking proportions, and the exceptionally high level of intimidation rife there. The Government was of the opinion that public safety and public order could not be guaranteed by the application of the ordinary laws of the land.

64. The Minister of Law and Order, at another meeting, told the Team that it had been necessary to retain the state of emergency in Natal for the same reasons that it had been necessary to apply it throughout South Africa in 1986, since the Internal Security Act was not adequate in dealing with large numbers of people, particularly where quick and effective measures are required. Similarly, the Regional Commissioner of South African Police in Natal stated that ordinary law did

not provide the powers necessary to deal with the Natal situation, such as the powers provided by regulations under the state of emergency to search homes for weapons in areas of riots, to declare a curfew, and to prohibit marches, meetings and large public funerals which had become politicized. The hope was expressed that with more police and fewer incidents, the lifting of the state of emergency in Natal could be recommended. Previous media restrictions on reporting were no longer in effect and the press could go where it wished, it was claimed.

65. As regards the detention of persons under the state of emergency, the State President announced on 2 February 1990 that the period of detention under the security emergency regulations would be limited to six months, and that detainees would have the right to legal representations and visits by medical practitioners of their own choosing.

Position of the national liberation movements

66. ANC asserted that, while the state of emergency had been lifted elsewhere, it was still in force in Natal and inhibited political activities. ANC alleged that because of the open support given to the Inkatha Movement by the police, the situation was difficult to resolve for a number of reasons: the security forces relied largely on "ordinary" police powers to search, seize and arrest in Natal; emergency powers were invoked specifically to exclude lawyers and journalists from "unrest" situations or funerals; the emergency regulations exist to maintain the morale of the South African Police and the right-wing "law and order" lobby.

67. PAC objected to the state of emergency being retained in Natal and considered the Government's reasons for retaining it there totally unacceptable.

Position of other organizations

68. A number of organizations welcomed the lifting of the state of emergency in the three provinces. The lifting had a tremendous psychological effect and the rule of law was now better respected. Under the state of emergency any police constable could arrest a person without laying a charge and that person had no recourse. Further, it provided immunity to the police for their actions. For some organizations the lifting was considered to be symbolic, since the State possessed virtually the same powers under the Internal Security Act and other statutes still in force as it had under the state of emergency.

69. In the case of Natal, many organizations felt that the state of emergency should be lifted as the ordinary criminal law could deal with all violent offences while, under the Internal Security Act, the State possessed wide powers which were not subject to judicial review. They charged that the maintenance of the state of emergency hindered political activities in that province.

70. Some organizations took the view that the Government could not be criticized for maintaining the state of emergency in Natal. They noted, however, that, while the state of emergency might reduce violence, it did not help create a climate conducive for negotiations. Some were skeptical that the retention of the state of emergency could reduce violence in Natal in view of the fact that it had not managed to do so during the last four years of its application there.

2. Repeal of legislation, such as the Internal Security Act, designed to circumscribe political activity

Position of the Government

71. When asked by the Team for comments with regard to the repeal of legislation designed to circumscribe political activity, the Minister for Foreign Affairs referred to the State President's speech in Parliament on 7 June 1990. In that speech, the President had said that the Government was already looking at aspects of security legislation which could possibly inhibit the free conduct of peaceful politics. The Internal Security Act was non-discriminatory in that it applied to all whose actions threatened the security of the State, whatever their political affiliations.

72. The Minister of Constitutional Development told the Team that the Internal Security Act would be amended; some suggestions had been received from the ANC and it was expected that the Act would be amended during the next session of Parliament with the process beginning during the coming parliamentary recess.

73. Regarding deaths in detention, the South African Government is aware of two cases of the deaths of prisoners in detention in terms of security legislation during 1990. One of these was investigated by a judicial commission of inquiry under the chairmanship of Mr. Justice Goldstone, and the finding was that the deceased took his own life. The second case is currently being investigated by a judicial inquest.

Position of the national liberation movements

74. The ANC stated that at the Groote Schuur meetings its delegation had argued for the repeal of the Internal Security Act and, although the Minute of that meeting implicitly speaks of amending the Act, the ANC wanted it repealed. The ANC, in addition, requested the repeal of all other laws which inhibited political activity; they are mentioned below in paragraph 79.

75. The PAC stated that, except for the state of emergency regulations, no other legislation designed to circumscribe political activity had been repealed. Together with other organizations and groups, the PAC and AZAPO called for the repeal of the Internal Security Act on the grounds that its wide provisions constituted a hindrance to free political activities.

Position of other parties and organizations

76. The Democratic Party argued for the amendment rather than the repeal of the Internal Security Act. Others stated that, although every state needed a law on internal security, the South African Act went too far as it curtailed normal political expression.

77. The Human Rights Commission of South Africa levied criticism against the wide and all-encompassing definition of political ideas which have been outlawed by the Internal Security Act. Possession or dissemination of political publications

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containing banned ideas is still an offence under the Internal Security Act, as is promoting, inciting or funding any protest or campaign against any law of the Republic. The Act also had a direct impact on freedom of association and expression in that, under section 46, all gatherings or any particular gathering could be banned by the Minister of Law and Order or by the local magistrate. Pursuant to that power, the Minister on 30 March 1990 and for the fifteenth consecutive year renewed the ban of all outdoor political meetings, making them subject to specific prior authorization, while all indoor gatherings were banned if educational boycotts or work stayaways were to be advocated. In addition, the Act could be used against freedom of expression since under it any person whose name is on the list of persons associated with banned or illegal organizations could not be quoted in the media.

78. A number of organizations spoke of the wide powers of detention under the Internal Security Act, which hindered free political activity. These included:

(a) Under section 28 of the Internal Security Act, a person may be held in preventive detention indefinitely by order of the Minister of Law and Order and no judicial review is possible. The person can be held in prison incommunicado in accordance with regulations made by the Minister of Justice under subsection (2). Under subsection 28 (7), no court of law has jurisdiction to pronounce upon the validity of any regulation made under subsection (2).

(b) Under section 29, a police officer of the rank of lieutenant-colonel or above can without a warrant detain a person for questioning for 30 days (renewable by the Minister of Law and Order). The person can be held incommunicado and no information need be given about the arrested person although he or she is to be visited fortnightly by a magistrate and a district surgeon. There is no judicial review of the detention.

(c) Under section 30, a person shall be refused release on bail when the Minister of Law and Order so directs.

(d) Under section 31, the Attorney-General may detain a potential witness for up to six months. In this connection, the person can be held incommunicado and shall be visited fortnightly by a magistrate and a district surgeon. The Act specifically provides that the Courts have no jurisdiction to review the validity of this type of detention.

(e) Finally, two sections, 50 and 50 A, provide police officers with the power to arrest persons in connection with public disturbances for up to 14 days (section 50) or for 48 hours (section 50 A).

Concern was also expressed by these organizations over the treatment received by detainees under the above provisions, especially when held incommunicado or in solitary confinement. They alleged that five deaths in police custody have been reported in 1990.

79. Several organizations were of the view that a number of other laws which circumscribe political activity should be repealed. Among them are the following:

(a) The Public Safety Act, No. 3 of 1953, as amended in 1986, which permits the proclamation of a state of emergency, and the declaration of "unrest areas", which would amount to a mini-state of emergency;

(b) The Disclosure of Foreign Funding Act, No. 26 of 1989;

(c) The Affected Organizations Act, No. 31 of 1974 (which restricts the receipt of funds);

(d) The Riotous Assemblies Act;

(e) The Gatherings and Demonstrations Act, No. 52 of 1973.

Other acts, some of the provisions of which were said to limit freedom of expression and information and therefore political activity, are the Police Act, the Prisons Act, the Publications Act, the Nuclear Energy Act and the Defence Act.

E. Cessation of all political trials and political executions

80. Paragraph 6 (e) of the Declaration on *Apartheid* and its Destructive Consequences in Southern Africa calls for the South African régime to "cease all political trials and political executions".

Position of the Government

81. At the request of the Team, the Minister for Foreign Affairs provided information regarding the present status of political trials and executions in South Africa. He stated that the Joint Government-ANC Working Group's recommendations were relevant. The Government was ready to implement the recommendations in the report. The approval of ANC is awaited. The cases of all persons convicted of political offences as then defined would be reviewed in accordance with the terms of the agreement arrived at between the Government and the ANC. Furthermore, as the State President announced on 2 February 1990, the death penalty will be limited as an option to extreme cases only. In this respect, the Criminal Law Amendment Bill is before Parliament. Its main objective is to do away with the compulsory imposition of the death sentence (which applied in cases of murder without extenuating circumstances) and to vest the Supreme Court with a discretion in this regard. All persons sentenced to death will have an automatic right of appeal, and the defence counsel will be empowered to appeal for clemency if the accused decides not to do so. The Bill also provides for the appointment of a panel of legal experts and Appeal Court judges to review, in accordance with the new legislation, the cases of all persons previously sentenced to death. Meanwhile all executions have been suspended, pending adoption of the legislation and completion of the review procedure.

82. The term "political trial" is considered a misnomer. Trials as such were not political. Offences featuring in trials may, however, be described by some as "political". "Political offences" were a product of the times. In South Africa times have changed dramatically and what may have been viewed as a "political

trial" in the past may not be viewed in the same light in the future. In any event, offences which are judged to be political could be eligible for pardon or indemnity.

Position of the national liberation movements and other organizations

83. According to ANC and UDF:

(a) A number of political trials were still in progress; and

(b) Although executions for offences had been suspended, the further step of amending the law to prevent executions for political offences needed to be taken without delay.

84. PAC summed up its views on this matter as follows: "A large number of political trials are presently in progress and political executions have been stayed, pending the review of each case by a panel of judges who have been enjoined to apply new legislation which permits greater discretion in the imposition of the death sentence. Implicitly, some political executions may be carried out."

85. According to the Human Rights Commission of South Africa:

(a) Political trials and imprisonment continue unabated under the Internal Security Act as well as under a plethora of other repressive legislation and common law. About 400 political trials were recorded in 1989 and the rate during 1990 is even higher.

(b) Political executions have been suspended since 2 February and legislation governing the death sentence is to be amended to some extent (Criminal Law Amendment Bill). Nevertheless, over 300 persons are on death row (70 as a result of political circumstances) with their fate uncertain.

86. Several other organizations, including AZAPO, IDASA and the Detainees' Support Group, said that political trials were still taking place. Some political trials were alleged to have commenced under the guise of criminal trials, involving a shift from detaining persons without trial under security legislation to detaining them on charges under the normal criminal law.

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IV. OTHER ELEMENTS CONDUCIVE TO FREE POLITICAL DISCUSSION AND TO THE PROCESS OF NEGOTIATIONS

87. In addition to obtaining information related to measures prescribed in paragraph 6 of the Declaration on Apartheid and its Destructive Consequences in Southern Africa, the Team focused its efforts towards collecting information from its interlocutors on other elements which are directly related to the issue of free political discussion and activity. These elements are freedom from violence, freedom of assembly and freedom of press.

A. Creation of an atmosphere free of violence

88. The Declaration recognizes the linkage between an atmosphere free of violence and progress towards negotiations. Paragraph 8 of the Declaration states, "we are of the view that the parties concerned should, in the context of the necessary climate, negotiate the future of their country and its peoples in good faith and in an atmosphere which, by mutual agreement between the liberation movements and the South African regime, would be free of violence".

89. Several types of violence were identified by the various groups which met with the United Nations Team. They included violence related to activities by the police and security forces, attacks by hit squads against anti-apartheid activists, violence by vigilante groups and by the far right, violence between political organizations and violence related to the armed struggle. The violence in Natal was considered to be a combination of several of these types.

Position of the Government

90. The Government of South Africa made it clear that it has consistently stressed the importance of maintaining law and order and that there was no place for violence and armed struggle in the country. In his statement to the Parliament on 2 April on the search for peace and stability, the State President suggested that the current acts of violence differed from that in the middle 1980s. At that stage, he stated, the security forces were blamed and often accused of violence and its continued existence. The present was however different. There was no protest against the security forces; in fact, the assistance of the security forces had been requested from unexpected quarters. There was an acceptance of the necessary protective role of the security forces. He announced that the South African Police, assisted by the South African Defence Force, had received instructions to immediately act firmly and purposely in curbing all areas of unrest and violence. These new measures included an increased visual presence of the security forces, road blocks and the patrolling of roads and areas with vehicles and aircraft and increased enforcement of law against crime, intimidation and unrest. Everyone, he stated, should understand that the instructions may lead to an increase in the number of people detained. Continuing this theme in a statement to the Parliament on 17 April, the State President said chaos and anarchy would not be tolerated.

91. At the meeting at Groote Schuur, the Government and the ANC agreed on "a common commitment towards the resolution of the existing climate of violence and

intimidation from whatever quarter as well as a commitment to stability and to a peaceful process of negotiations" (see A/45/268). The Team was informed that, in conformity with the provision of the Groote Schuur Minute to establish effective channels between the Government and the ANC to curb violence and intimidation, regular consultations between the two parties take place through a joint steering committee.

92. The Minister of Law and Order stated that although he believed that the unrest in South Africa required a political solution and could not be solved by security measures, it was necessary to maintain law and order. The number of people arrested for violent activities had increased since the measures announced by the State President de Klerk on 2 February 1990. For instance, arrests increased from 1,371 in February to 2,136 in March. He indicated that many more people would have been arrested had the full powers of the Minister been exercised. To address criticisms of police activities, police partiality for instance, the Minister said that he had appointed a senior police officer to investigate any complaint made against any member of the South African Police force. Moreover, he was considering seeking an amendment to the Police Act prohibiting members of the police force from joining any political parties.

93. After stating that the Government was reluctant to repeal the Internal Security Act because of the existing high level of extreme violence from, inter alia, the extreme right wing, the Minister explained that the police were unable to take more law enforcement action because there was not enough police available. This shortage of police was also the reason why whites carrying weapons had started patrolling the streets. The Government recognized this problem and decided to increase the police force by 10,000 men within 12 months. He further indicated that since the extreme right could be even more dangerous than the left, it seemed advisable to talk to them and convince them of the futility of any further violence. He stressed, however, the fact that the Government would not hesitate to act against the far right wing if necessary and that several right-wingers are in detention at the moment.

94. It was further mentioned by Government representatives that CCB was currently subject to investigation by a Judicial Commission of Inquiry.

Position of the national liberation movements

95. ANC expressed great concern about the extent of violence, claiming that the apartheid system was its source. It claimed that anti-apartheid activists lived in fear of their lives, and of attack on their buildings and property, consequently a climate for free political activity did not exist. ANC charged that there was an unwillingness on the part of the Government to take firm action against police indiscipline and to establish strict guidelines for police action.

96. The ANC leadership expressed disappointment that the Government had not dismantled CCB, despite all the evidence of the "horrific deeds" it had committed. They further complained about the narrow terms of reference of the Harms Commission, established to investigate the illegal activities of the security forces. Special concern was registered about the failure of the Government to take

action against white paramilitary forces that publicly proclaim their violent intentions. The case of Welkom was cited as an example, where armed white extreme right-wing groups patrolled the streets. Black miners had been attacked and the premises of the miners' union firebombed.

97. PAC asserted that institutionalized violence in the form of suppression of community uprisings or public marches was still prevalent. The killing of blacks in Sebokeng and in Welkom were cited as examples. Particular concern was voiced about the alarming trend of the far right to arm themselves and engage in military training as well as the apparent unwillingness of the Government to address this issue squarely. As a result of the rising threat posed by the far right wing and the continued police repression, PAC said it felt compelled to continue the armed struggle.

Position of other parties and organizations

98. The majority of organizations believed that the continued escalating violence remained an obstacle to the creation of a climate for free political discussion and progress towards negotiations. In their view, violence was pervasive in South Africa. Attention was drawn particularly to a large number of firearms licences which had been issued in recent months to the white population, and to the growing threat of the extreme right wing.

99. It was also stated that a relationship existed between violence and the Government's failure to monitor adequately the implementation of its security laws. Although the state of emergency had been lifted in three provinces, it was claimed that many laws still remained on the books which enabled the authorities to arrest, detain, harass and disperse anti-*apartheid* supporters and demonstrators. In this connection, it was stated that most of the current police action against demonstrators takes place under section 46 of the Internal Security Act.

100. Documents submitted by the Human Rights Commission and the Independent Board of Inquiry into Informal Repression provide what they considered to be a conservative estimate of 176 persons killed and 1,563 injured as a result of police action during some 70 demonstrations between 2 February and 2 June of this year; in the Sebokeng incident alone, 12 people were killed and nearly 500 were injured when police fired into the crowd. Several anti-*apartheid* groups also complained that Operation Watchdog, a recent programme of search and seizure sweeps instituted by the police, ostensibly to find illegal weapons, had been used primarily against opponents of *apartheid*.

101. Several organizations stated that black and white vigilante violence had increased since the beginning of the year. They observed that most of the black vigilante activity occurred in the context of the conflict in Natal, while white vigilante activity was carried out by covert death squads related to CCB undercover operations and to overt acts of the far right wing. They also attributed the growth of far right-wing intimidation and violence to tacit support and encouragement by the local police and security forces.

102. In a document presented by the Black Sash it was stated that "we have been greatly dismayed by the widespread violence which is shaking the country. It seems

as though there is a hiatus, created by the uncertainity of a transition period, which is being inexorably filled by conflict at many levels: a contest for power and control; attacks based on racist hostility, intimidation, punishment and revenge; and outright warfare between competing forces". The Black Sash felt that "all must share the responsibility. Causes and culprits must be identified, and the government must acknowledge its task as the ultimate provider of protection for all. This means that it is of the utmost importance that the police and the army are impartial servants of the public and are seen to be so. The constitution-making process must be as speedy as possible, and as consultative and open as possible. Those who see no future for themselves unless they fight for it, must be persuaded that there is a vehicle through which their aspirations can be met. The help of those who have power to affect the outcome of events must be enlisted. It is inevitable that the actions of the powerful business community, the outside world, the unionised labour forces, the religious communities and other groupings within and outside the country have an impact on events."

1. The violence in Natal

103. Virtually every organization considered the protracted violence in Natal a national crisis. Many considered it a major obstacle to the creation of an appropriate climate for negotiations. They maintained that the situation had taken on special importance not only because Natal was the one province where the state of emergency had not been lifted, but also because a government-backed self-governing homeland - KwaZulu - was a major party to the conflict. The conflict was being seen by some as a power struggle for mass support, influence in the negotiations and pre-eminent status in the post-*apartheid* South Africa between two divergent political movements.

Position of the Government

104. The State President has called the destruction of life and property in Natal shocking. Speaking to the Parliament on 2 April 1990, he said that "investigations indicate the causes of the unrest can be traced to many areas ... in addition to the above factors, there is a strong presence of a power struggle between political and ethnic groups, which is complicated by long family and tribe vendettas".

105. In an effort to address this situation, Mr. de Klerk announced that the Government intended to implement a more extensive action plan. This plan included, *inter alia*, a co-ordinated security plan that involved the deployment to the areas of considerable additional manpower provided by the Defence Force, the provision of appropriate equipment, the intensification of normal policing and the arrangement for extra courts, as well as a special effort "on the socio-economic areas" that would be co-ordinated with the Minister of Planning and Provincial Affairs in close co-operation with all relevant functionaries.

106. Later, on 7 June, when announcing the lifting of the state of emergency except in Natal, State President de Klerk said that "the increasing phenomenon in Natal of violence among Blacks, which has led to destruction of human life and property and has assumed shocking proportions, as well as the exceptionally high level of

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intimidation that exists there, must still be countered by the strongest means available" (A/45/307, appendix II).

107. The Minister of Law and Order explained that it was necessary to maintain the State of Emergency in Natal because the Internal Security Act was not useful against large numbers of people. He said that the major cause of violence there was the power struggle between the ANC and Inkatha. The history of Zulu family feuds was also a contributing factor. Troops were necessary in that Province because the available police force was insufficient to deal with the violence. He said that at first additional troops and police had been brought in from other parts of the country but that they could not be maintained there indefinitely. They were replaced by troops speaking Zulu, and subsequently by troops from Cape Province, but for various reasons the Minister had been asked to withdraw them. The 32nd army battalion was now stationed there; it had been in Angola and its soldiers, now all South African citizens, were considered impartial as they did not come from the region and they did not speak Zulu.

108. Concerning a peaceful resolution of the conflict, the Minister for Foreign Affairs said that the Government had tried unsuccessfully to arrange for a meeting between the leader of Inkatha and the Deputy President of the ANC. While the Government was prepared to help, the problem should be resolved by the two organizations.

109. Provincial authorities in Natal also viewed the conflict between Inkatha and the ANC/UDF/COSATU alliance to be political in character, aimed at seeing who would represent the people in the coming negotiations. They pointed out that violence had moved from the urban to the rural areas. It was stated that the South African Police had joint patrols with the army, and when in KwaZulu territory, with the KwaZulu police officers whenever possible. Local authorities denied that the South African Police, or members of the 32nd battalion of the defence forces, were biased. In order to maintain political neutrality, there was an agreement between the South African Police and the KwaZulu Government to report any wrongdoing by members of either police force to the Attorney-General. The KwaZulu police acted under the instructions of the KwaZulu Government and the South African Government had no authority over their actions.

110. The Regional Commissioner of South African Police in Natal stated that, under normal circumstances, the number of police in the Province would be sufficient. However, since March this year, the situation of violence had become very serious and could not be controlled by the police. In that month, 573 incidents of unrest (burnings, stonings, petrobombings, serious assault, and riotous acts) had been recorded. In April, with the arrival of the troops, that number had dropped to 376; the figure for May was 153; and for the first 10 days of June only 45 minor incidents had been recorded. The police had the main responsibility for maintaining law and order and were assisted by the military on joint patrols. There was always a South African police officer and, if possible, a KwaZulu police officer with the troops when they were in KwaZulu territory.

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Position of the national liberation movements

111. A recent address by the Deputy President of the ANC before the International Labour Conference in June 1990 was brought to the Team's attention. Speaking of the continuing police violence, the Deputy President said "We must, in this context, also mention the continuing senseless carnage that is taking place in the province of Natal. We have made it very clear to the Government that they must discharge their responsibility and end this violence. We, for our part, will continue to do everything in our power to solve this problem by peaceful means, whatever the obstacles in our way. We would like to take this opportunity to urge you to support the international campaign initiated by our democratic movement, to draw attention to this situation and to generate the necessary pressure to oblige the South African Government to end the killing of our people. You should know that there are present in this hall representatives of our major trade union federation, COSATU, who have come out in part to take up this issue of Natal violence."

112. ANC, supported by UDF and COSATU, asserted that the South African and the KwaZulu Police forces were a major obstacle to the creation of a peaceful settlement in Natal because of their lack of impartiality. In its view, these forces were the main contributing factors to the continuing violence in the region. The state of emergency had neither stopped the violence nor police misconduct, instead, it had tended to protect the police from prosecutions and public scrutiny. Numerous cases of criminal activity by the police were cited, including theft, rape and assaults, and it was contended that the troops, together with the South African and KwaZulu police forces, had demonstrated partisan support for Inkatha. The fact that only 12 prosecutions had been obtained despite hundreds of charges and that more than 3,000 persons had been killed in four years, clearly indicated that the criminal justice system in Natal had broken down. That situation strengthened the prevailing attitude among the KwaZulu police that they were above the law, and left witnesses unprotected and open to retaliatory violence. Even when prosecutions were obtained, defendants were easily acquitted.

113. According to ANC, since 1987 all peace efforts had failed due to Inkatha's position. ANC, supported by UDF and COSATU, stressed that the magnitude of the violence in Natal made it an issue of national concern. Therefore, it had recently demanded that: the State President intervene directly in the resolution of this crisis; the state of emergency be lifted in Natal; the troops be withdrawn from the area or that their peace-keeping functions be defined clearly; the police powers be withdrawn from the Chief Minister of KwaZulu; the KwaZulu police be disbanded; the KwaZulu warlords be arrested and prosecuted; the homelands system be dismantled; and a commission of inquiry be established to investigate the conduct of the police. Having failed to reach an agreement with Inkatha, COSATU, in co-operation with ANC, UDF and the South African Youth Congress (SAYCO), planned to convene a national peace conference in Natal in July/August 1990. They were also planning a series of national actions, beginning with a national stayaway on 2 July 1990.

Position of Inkatha

114. Two meetings were held with representatives of the Inkatha Movement, one with local representatives in Pietermaritzburg and the other with a ministerial delegation in Durban. The two Inkatha delegations contended that the conflict between their organization, on the one hand, and ANC, UDF and COSATU, on the other, had begun in 1985 when UDF launched a recruitment drive in Natal. They claimed that Inkatha had suffered most from the ensuing violence and that attacks against its supporters had increased in recent months. The local Inkatha delegation maintained that the Chief Minister of KwaZulu had taken the initiative to discuss the Natal situation with ANC leaders, first with ANC President, Oliver Tambo, and subsequently, last April, with the Deputy President, Mr. Nelson Mandela. Both efforts had failed.

115. The Inkatha ministerial delegation reminded the Team that, for the past decade, when ANC was in exile and other groups were banned, Inkatha had been the leading spokesman for blacks in support of a democratic alternative to apartheid. By refusing to accept independence for KwaZulu, its Chief Minister Mangosuthu Gatsha Buthelezi and Inkatha had frustrated the Government's homeland policy. They recalled that Chief Minister Buthelezi had refused to discuss constitutional development proposals with the South African Government until Nelson Mandela and other political prisoners had been released. The Inkatha delegation mentioned that its Central Committee had taken the initiative in attempting to establish a peace process in the KwaZulu/Natal region. Originally, the idea was to have Inkatha nominate five representatives, and UDF and COSATU another five representatives for the purpose of pursuing peace initiatives as a Joint Peace Committee. Unfortunately, the Joint Committee encountered difficulties, particularly because of a vilification campaign against the leader of Inkatha. Inkatha also mentioned that following the lifting of the ban on ANC, the President of Inkatha had called for a broadening of the membership of the Joint Committee so that each individual organization would be represented by a five-man delegation. Inkatha felt that, because of the critical situation, a full-blown attempt should be made to call all sides together. The Inkatha delegations were of the view that a joint appeal by the Chief Minister and the Vice-President of ANC for peace in Natal could have salutary effects.

116. The delegation stated that Inkatha was in the process of transforming itself into a full-fledged political party, and appealed for United Nations recognition as a liberation movement as in the case of ANC and PAC.

The position of other organizations

117. A number of church groups asserted that the violence in Natal had reached crisis proportions. They felt that the situation was serious enough to warrant the services of a United Nations peace-keeping force. The police, who had been conditioned to counter revolutionaries, were overzealous in their efforts to maintain law and order. In addition, it was suggested that the multiple responsibilities of Mr. Buthelezi as Chief Minister of KwaZulu, Chief of Police and leader of the Inkatha Movement created some confusion and perhaps even a conflict of interest.

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118. Some church leaders claimed that the Government did not appear to be willing to stop the violence in Natal and commented that had such extensive violence occurred in a white area, it would have been stopped in 48 hours. They emphasized the strategic importance of Natal, which shared a border with independent African States and contained the most important port in South Africa. For these reasons, Natal would be expected to play a significant role in any constitutional talks. It was suggested that continued violence in Natal would affect the climate for political activity and negotiations, and could spill over into other regions of the country.

119. Church leaders had called upon the Government in February 1990 to establish a Judiciary Commission of Inquiry to make a full investigation of the situation, including an assessment of the role of the various security forces. This request was renewed during a meeting with the State President in April. As of mid-June, no response to this request had been received. Business and academic groups and media representatives also expressed support for a judicial inquiry.

120. Some organizations viewed the situation in Natal as intense rivalry between traditionalism and modern urban sectors and a result of economic conditions in the province.

121. COSATU and UDF mentioned that repeated demands had been made for the appointment of a Commission of Inquiry to investigate police action in the conflict, but this was rejected by the Government. They alleged that, since 1987, several initiatives to establish a peace process in Natal had failed as a result of Inkatha intransigence. A code of conduct for the organizations in Natal had also been proposed, envisaging the monitoring of police action and the adjudication of complaints. In 1989, COSATU and UDF established a Joint Working Committee to meet with Inkatha in order to resolve the conflicts. These initial contacts had yet to produce any concrete results.

B. Freedom of assembly

Position of the Government

122. The Government affirmed that no organizations are presently banned, proscribed or restricted. There were few or no restrictions on political activities in the country. Individuals and political parties can organize as they wish and can participate in peaceful demonstrations.

123. Regarding the impact of the Internal Security Act on freedom of assembly, Government representatives indicated that section 29 of the Internal Security Act applied indiscriminately to all persons in South Africa without distinction. It applied only to the investigation of activities involving violence. Since the announcement of the State President on 2 February 1990, there was now ample evidence that the rights of freedom of assembly and political expression were fully enjoyed and regularly exercised in South Africa.

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124. The Minister of Constitutional Development stated that the Internal Security Act would be amended at the next session of Parliament so as to remove those aspects of the law that could impinge on political activity. In response to a question by the Team, the Minister stated that as a way of promoting confidence it might be useful to promulgate an interim "mini Bill of Rights" with enforcement powers so that people might feel protected as they undertook political activities. However, the Government would not allow freedom of assembly to be abused, as peaceful protest should not become the springboard for lawlessness, violence and intimidation.

Position of the national liberation movements and other organizations

125. Both ANC and PAC charged that although organizations had been unbanned they were still not able to organize freely. There were a host of laws, especially the Internal Security Act, which limited the exercise of freedom of assembly. The process of obtaining permits for meetings was cumbersome and often involved arbitrary decisions by the local authorities. Resort to the courts, in the limited instances where judicial review of ministerial or police powers were permitted, involved lengthy procedures which often forced organizers to postpone meetings.

126. These movements, as well as some other organizations, claimed that political organizers continued to be harassed from time to time by the police; some had been beaten, and even murdered by vigilantes and hit squads; others had been detained under section 29 of the Internal Security Act, thus making mass mobilization impossible.

127. The Human Rights Commission of South Africa considered that the Internal Security Act had a direct impact on freedom of association. Under section 46, all outdoor political gatherings could be banned and made subject to specific permission.

128. The Black Sash and IDASA said that the best way of assuring freedom of association and assembly as well as freedom of expression in the interim period, before the adoption of a new constitution, would be to have a "mini Bill of Rights", with enforcement powers, enacted forthwith.

129. Political organizations also complained that the continued imprisonment of some of their cadres, and the delay in declaring a general amnesty which would allow exiles to return home, were undermining their ability to organize and communicate among themselves in order to develop policies essential to their political activities.

C. Freedom of the press

130. The Government and most of the organizations acknowledged the special role that the media could play in communicating to the people the political changes that were taking place in South Africa and in promoting a free exchange of views.

Position of the Government

131. The Minister of Constitutional Development indicated that the Government had lifted the media emergency regulations and that it envisaged that freedom of press would be protected under the Charter of Human Rights which would be introduced in South Africa. The Minister stated that even if the South African Broadcasting Corporation (SABC) were to be privatized, the Government would ensure that radio would be used to promote education throughout the country.

132. Government representatives made clear that it is open to any organization to make a case for greater access to television and radio directly to SABC. With regard to complaints that the Police, Prisons and Defence Acts imposed restrictions on the press, the Government representatives observed that a scanning of the South African media would make clear that the alleged restrictions had a minimal effect on the freedom of the press.

Position of the national liberation movements and other organizations

133. Representatives of ANC alleged that there was no statutory basis for appeals against unequal radio and television coverage by political parties seeking to make their views known; in the absence of such legislation, it was vital that an independent and impartial overview body be set up to monitor and guide SABC. It was also noted that the visual media still suffered from greater restrictions than the print media; for example, under the Internal Security Act the visual media was not allowed to show any events related to unrest. ANC observed that in Natal, where the state of emergency was still in force, freedom of the press was non-existent.

134. Media representatives disclosed that the Minister of Home Affairs had requested the Media Council to examine all the laws under which the media operated and report to him, thus implying that there were laws restricting the media.

135. Media representatives both from the established and the alternative press (press not affiliated with the Media Council) agreed that there had been considerable improvement in the freedom granted to the media since 2 February 1990. However, the press was not yet fully free. It was still restricted by many laws such as the Internal Security Act, the Prisons Act, the Police Act, the Defence Act, the Intelligence Act and others; all imposed heavy penalties for reporting activities concerning these services.

136. One member of the alternative media pointed out that the established press was owned by a few conglomerates with close associations with the Government and financially supported by white advertisers. In such circumstances, the established press served only the interest of those groups and did not provide adequate coverage of news and events affecting the black population.

137. According to another member of the media, the press often exercised self-censorship because of the heavy penalties under the Prisons, Police and Defence Acts for reporting what the Government considered to be false information about the services covered by those Acts. The cost of litigation was so exhorbitant that the press preferred not to report some events, especially on matters concerning relations between the police and the public. Other members of the media stated that in spite of the costs the press had continued to go to court to contest restrictions placed on them by authorities, while at the same time trying to report whatever they could, testing the limits of law.

138. Defending the role of the press, several media representatives said that throughout the past 40 years it had been the press that had taken the lead in calling for change; it had been the press that had revealed the acts of official corruption and police brutalities that were currently being investigated by the Harms Commission; and it was because of press efforts that the minds of the majority of the white people were able to accept the changes being introduced by the State President.

139. Representatives of SABC, which is owned by the Government, declared that both it and some of the independent radio stations have been promoting debates on radio and television between Government ministers, representatives of political organizations and other leading figures of anti-*apartheid* movements. The media representatives felt that much more could be done in this respect.

140. There was agreement among the media representatives that the press must work on promoting a future democratic South Africa, that it must have the courage to debate new ideas such as the bill of rights, and that it was necessary that the Government utilize the media, especially the electronic media, to educate the people about the changes.

V. VIEWS RELATING TO THE QUESTION OF NEGOTIATIONS FOR A NEW CONSTITUTION

141. Sections III and IV of the present report presented the views and positions of the Government and those of other interested parties on the measures taken so far and still required to create the necessary climate for negotiations as well as other elements conducive to free political discussions and for advancing the negotiating process. This chapter contains positions and views expressed to the Team with regard to the mechanisms for the drawing up of a new constitution and an assessment of the progress made thus far and prospects for the future.

Position of the Government

142. The Minister for Constitutional Development informed the Team that the State President, in his inaugural address last September, had made it clear that he wanted the situation in South Africa to be normalized so that negotiations for a new constitutional dispensation could begin. For this purpose, the State President had entrusted him with the task of starting the process of negotiation, and developing models for a constitution that could be presented at the negotiating table. The Government had concluded that as long as political organizations were banned and their leaders were in prison or in exile, the negotiation process could not be initiated. There was consequently a need to allow such organizations to function freely. Therefore, on 2 February 1990, the State President had announced the unbanning of the organizations and the release of Mr. Mandela, which became effective a few days later.

143. As a number of pre-conditions had been set by the ANC and others before negotiations could begin, the Government had had to embark in a long process of consultations to remove the so-called obstacles to negotiations. The Government's view was that although some of the items on the "shopping list" of the pre-conditions were probably relevant a year ago, they were no longer so, e.g. the removal of troops from the townships. Nevertheless, the Government had tried to meet many of the pre-conditions and had had many bilateral discussions to that effect with those parties in South Africa with an interest in the negotiating process.

144. The Minister of Constitutional Development spoke of preliminary talks with ANC. He said that three issues were of major concern to the Government/ANC working group which was formed at the Groote Schuur meeting, namely: release of prisoners and immunity for exiles; return of South African citizens from abroad, many of whom did not have identity papers to prove that they were South African citizens (the ANC and the Department of Interior had set up a mechanism to work on the necessary arrangements for repatriation); and assistance to returnees (a Government-ANC group was working on this issue as well). The Government was disappointed in the delay shown by the ANC in responding to the recommendations of the working group. As soon as these preliminary consultations were complete, the Government would wish to see comprehensive negotiations begin that included all parties.

145. The Minister felt that under the present circumstances it appeared that the preliminary arrangements could be finalized by the end of the year, and that

negotiations would not start before the beginning of 1991. He expressed his intention to complete the process within the next two to three years. The Minister mentioned that he was aware that some organizations preferred the constitution to be drafted by a Constituent Assembly. Although the Government was opposed to this proposal, it did not object to its being discussed at the negotiation table like any other proposal coming from any party.

146. The Minister of Constitutional Development observed that, during the September 1989 elections, the State President had promised to put the new constitutional dispensation resulting from the proposed negotiations to a referendum of the white electorate. Responding to a question from the Team, the Minister stated that the result of the negotiations could also be submitted to a national referendum.

147. According to the Minister of Constitutional Development, the violence in Natal would not be a serious obstacle to the commencement of negotiations. However, the Natal situation had to be resolved. The Government had suggested that the State President, Mr. Mandela and Chief Buthelezi meet and settle the problem. Such a meeting had not yet taken place.

148. The Government felt that it had gone very far in creating the climate for negotiations. The National Party was in close touch with its members in order to help them accept the results of the forthcoming negotiations. Such grass-roots support was necessary for the success of the political process.

149. The Minister for Foreign Affairs pointed out that the Government preferred that all parties with a "proven, acknowledged constituency" had the right to participate in the negotiations on the new constitution, and that the Government would welcome broad participation.

150. He reiterated the Government's strong view that it was for the people of South Africa to negotiate a new constitution and that the Government did not appreciate being told by outsiders how the constitution should be drafted and what it should contain.

151. The Government intended to seek the repeal or amendment of the Land Acts and the Group Areas Act at the 1991 session of Parliament. It was indicated that the Population Registration Act was inextricably linked with the present constitution and therefore its repeal could take place only in the context of the adoption of a new constitution.

Position of the national liberation movements

152. ANC fully recognized the boldness and the significance of the measures taken thus far by the State President towards the creation of a climate conducive to negotiations. However, it felt that sufficient changes had not yet occurred in South Africa to make the process of dismantling *apartheid* irreversible. "Profound and irreversible changes" could only be declared to have taken place once free and fair elections to a Constituent Assembly had been conducted on a non-racial basis. ANC warned that in the event that the results of a "whites only" referendum or an election rejected the dismantling of *apartheid*, the political clock would be turned back.

153. ANC stated that it would continue to press for the release of all political prisoners, for the end of political trials, for the return of exiles, for the repeal of repressive legislation, and for the lifting of the state of emergency throughout the country. Ongoing consultations between ANC and the Government were aimed at the creation of the necessary climate for negotiations. The Groote Schuur meeting in May had been held at its initiative for the purpose of removing obstacles to negotiations.

154. ANC had long pressed for the repeal of the Internal Security Act and, at Groote Schuur, had reiterated the demand that it be repealed, not just reviewed. The ANC noted that the Parliament was about to adjourn and would not meet again until next year; consequently that Act would not be repealed in 1990.

155. ANC explained that not everybody in South Africa had as yet accepted that a negotiated resolution of the problem was the best way forward. There were many among the white population who were determined to resist change by force. ANC was worried about the influence that the far right elements were having on the army and the police. An alliance seemed to be developing. Weapons were beginning to disappear from the state armouries and were ending up in the hands of far right elements and in Inkatha hands. Such a situation, coupled with the increased number of gun licences being issued to whites, did not augur well for the process of negotiations and the future of the country.

156. ANC added that when the obstacles to negotiation had been removed it would be possible to bring all the representatives of political forces in the country together and agree on the necessary measures which would lead to the elaboration and adoption of a democratic constitution. ANC said it was determined to ensure the broadest possible unity of all those who were in favour of a genuine democratic transformation and of the creation of a new non-racial society based on the principle of one person, one vote on a common, non-racial voters' roll.

157. ANC stated that it was incumbent on the United Nations to continue to maintain the international community's consensus on the dismantlement of apartheid. ANC considered that the United Nations could continue to play a valuable role as an impartial monitor of developments in South Africa, and could make such developments known to the international community. It believed that the Constitutional Guidelines of ANC should be supported by all since they were in full accord with the spirit of the United Nations Charter and the Universal Declaration of Human Rights, and indeed, the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted by the General Assembly in December 1989.

158. PAC believed that the South African Government had no intention of negotiating genuinely and seriously for the creation of a new social order. In its view the Government rejected "majority rule", non-racial democracy as well as the redistribution of resources, in particular of land.

159. It was the view of PAC that the conditions which the Declaration had set as essential to create the necessary climate for negotiations were not negotiable. The South African Government had not complied with most of these conditions. The Government had shown no "demonstrable readiness" to deal with at least two of the most fundamental principles in the Declaration, notably the right to universal

equal suffrage under a non-racial voters' roll and the creation of an economic order that would promote and advance the well-being of all South Africans.

160. PAC considered that all of the conditions for creating the climate for negotiations stated in the Declaration were intended to be unilaterally met by the Government. None of these conditions were intended to be subject to negotiation. Only one condition had been fully met by the South African Government, namely the unbanning of organizations. Since there had been no substantial compliance with the measures necessary for the creation of a climate for negotiations, there was no basis for contact or talks, exploratory or otherwise, between the South African Government and the liberation movements, at this stage.

161. PAC advocated the establishment of a Constitutent Assembly which would ensure that the process of new constitution-making was democratic; lend legitimacy to the constitution-making process; ensure the participation only of those organizations with legitimate support among the people; and free the constitution-making process from manipulation and channelling through governmental structures.

162. Further, PAC informed the Team that there had been no consultations between liberation movements over the issues contemplated in the Declaration.

163. According to PAC, once the Government had conceded the necessity to establish a Constituent Assembly, agreement would have to be reached between the liberation movements and the Government over transitional arrangements and modalities related to the process of constitution making through a Constituent Assembly. These arrangements would include the holding of elections to a Constituent Assembly and the transition to a democratic order. Since it did not expect the Government to agree to these demands in the near future, it was the view of PAC that negotiations with the Government at this stage would not achieve any of its stated objectives.

Position of other political parties, movements and organizations

164. According to the Democratic Party, the State President, in his speech of 2 February, had initiated a process of seeking a political solution to the problems facing the country, and that process could not be reversed. It was highly improbable that there would be another all-white general election. The process pointed towards the ending of *apartheid* and it was most unlikely that it could be stopped. If it was stopped, there would be chaos. The white backlash and possible far right-wing violence should not be underestimated, since many whites felt insecure and uncertain about the future. The Democratic Party hoped that the process of negotiation would be accelerated.

165. In the view of the Democratic Party, the climate for negotiations did not depend only on the Government, but also on ANC. Since 2 February 1990, much had happened, namely the release of Nelson Mandela, the lifting of the state of emergency, and the agreement at Groote Schuur. The Government had gone a long way in creating a climate for negotiations. The other side had to contribute also to that climate. The question of violence was crucial and could not be separated from the "armed struggle". Both hurt the climate for negotiations, particularly since they encouraged right-wing extremists to arm themselves, thus creating further obstacles to the process of negotiation.

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166. The Democratic Party suggested two ways to further the process of negotiation. First, to reduce those factors which contribute to the climate of violence. In this respect, political violence would only end when all the parties concerned such as ANC, Inkatha and PAC, met to consider ways to stabilize the situation. Second, to expand, as soon as possible, the process of consultation by including other parties, such as PAC, AZAPO, the Democratic Party, and even the Conservative Party. It was explained that the latter, if not brought into the negotiation process, might attempt to veto the results. There was a frustration developing, a feeling of exclusion, which could endanger the future. It appeared that the Government and the ANC believed that, between them, they could control the process and this was troubling other political organizations. The Democratic Party maintained that it had not yet been invited to participate in the consultations that were under way.

167. In the opinion of the Democratic Party, the Government had, at present, three roles: it governed the country, it represented a political party in the Parliament and it was supervising the process of negotiation. Some way had to be found to separate those roles. It would be desirable to appoint a facilitator who would be in contact with all parties to the negotiating process. The Democratic Party thought that the Chief Justice, for instance, could fulfil that role.

168. The Democratic Party said that there was some irritation with the notion that an outside body like the United Nations could set down guidelines for a negotiating process. While the Democratic Party had no disagreement with the guidelines on their merits, however, negotiations should not be limited to national liberation movements. The Democratic Party made clear it was anti-apartheid but not a liberation movement.

169. The leader of the Conservative Party, during the debate in Parliament on 2 February, declared in reference to the State President's speech on that day, that it was the most revolutionary statement he had ever listened to in Parliament over the past 19 years, and merely served to make him more excited about the battle which was about to begin. He added that the National Party neither had a mandate to negotiate away the future of the whites, nor to give a place to those who continued to be committed to the armed struggle. The Conservative Party leader continued that if the State President intended to force the whites of South Africa to accept a constitutional dispensation, depriving them of their political say, he was going to have to bear the responsibility for the violent reaction which it would evoke.

170. The Solidarity Party expressed the view that the Government had established a climate for negotiations by its recent actions. The Party believed that a bill of rights protecting the political rights of minorities would have to be a part of any new constitution. The five million whites must be made to feel secure because if they were not they could destroy the country.

171. Concerning negotiations between the Government and ANC, the Solidarity Party thought they should start as soon as possible because irreparable harm could result from delay. The Party expected all parties, regardless of race, to be represented at the negotiations for a new constitution. The Solidarity Party was not in favour of a Constituent Assembly to negotiate the constitution. In its view, any new

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negotiated draft constitution would have to be referred to the white electorate for approval, as so promised by the State President, and then be submitted for adoption to the present Parliament as it is currently constituted.

172. The Inkatha movement representatives said that they wanted changes to go faster but it was necessary to be pragmatic and all political forces should be taken into account. Inkatha supported the initiatives towards negotiations undertaken by State President F. W. de Klerk and considered that the process set in motion by him is irreversible. In that context, they stressed that as an organization which had always supported negotiations as a path to a resolution of the conflict in the country, Inkatha should be a party to the negotiations.

173. The Inkatha Movement believed in the creation of a united South Africa with one sovereign parliament. It also believed in a democratic, non-racial and multi-party political system, in the protection of individual and minority rights, in freedom of association for individuals regardless of race, and in the free enterprise system.

174. AZAPO stated that the consultative process should be broadened and that a Constituent Assembly should be established to prepare a new constitution, since only elected representatives should participate in constitutional negotiations. Regardless of the sincerity of the State President, AZAPO added that the present system could not be trusted. The land issue should be part of confidence building.

175. The Team also received views concerning negotiations and the new constitutional order from a wide spectrum of organizations. Nearly all organizations were of the view that time had come to widen the consultations between the Government and the ANC before actual negotiations started. The divide in South Africa was no longer between Parliamentary and extra-Parliamentary forces, but between the "insiders" and the "outsiders", the Government and ANC being the key "insiders".

176. According to IDASA, it was necessary for the negotiations to be as inclusive as possible in order to ensure a wider acceptance of the result. The irreversibility of the changes taking place in South Africa would be reached when negotiations on the constitution itself began. However, it was emphasized by nearly all organizations that there was "no luxury of time" and hence the need to begin negotiations as soon as possible.

177. Several organizations considered that the demand to establish an elected Constituent Assembly as the instrument for drafting a new constitution was a realistic one as it would entail a mandate from the people. A variety of views were expressed regarding the exact powers of a Constituent Assembly in relation to the existing Parliament and ways to avoid a power vacuum. Suggestions included the idea of investing the Constituent Assembly with powers limited to the drafting of the new constitution. Some organizations suggested, that in order for the Government not to be alone in the "driver's seat" during the negotiations, a Government of national unity should be formed. However, several organizations, including church, business and academic groups, felt that the negotiating process would face its greatest challenge from the deep-rooted fears among the white population and suspicions among the black. It was suggested that both white and

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black leaders intensify their efforts to communicate to the population, as a whole, the merits and objectives of the political process.

178. The non-racial trade unions, in particular COSATU, as well as some church leaders, believed that the message being sent by the Government on the question of negotiations was confusing and contradictory. COSATU pointed out, as an example, that after an agreement had been reached between the black trade unions and several employers on proposed amendments to the 1988 Labour Relations Amendment Act, the Government had delayed sending the legislation to Parliament because of objections raised by white trade unions and some white employers. Such confused signals undermined the process of negotiation and made the black workers feel that the process towards ending *apartheid* was not serious.

179. Some sectors of the business community considered that constitutional change would be facilitated if there was better understanding of the economic issues at stake among the white and black leadership and the business community at large. Thus, business organizations such as CBM, had initiated contacts in which various parties exchanged views on future basic economic policies that might be reflected in a new constitution.

180. Sections of the business community held the view that if there was no real progress in the negotiating process the National Party might be forced by its own constituency to manage the situation rather than solve it. While business leaders felt the need for the process of negotiation to move quickly, they recognized that all parties needed some time to adapt their responses to the negotiating process and to consolidate their power in their constituencies. This delay should not necessarily be seen as jeopardizing the preparatory process but rather as a necessary element of the long-term solution.

181. As for the process of negotiation, some business leaders thought that the parties should be aware that symbolic victories for both the white and black community could be important and therefore their leaders must give each other a margin for manoeuverability. It was mentioned that such evidence could, for example, involve black leaders advocating the lifting of some sanctions, such as the sports and cultural boycotts which have emotive impact on the white community. Likewise, white leaders, together with the business community, could seriously undertake visible and concrete programmes aimed at the economic uplifting of the black communities in order also to strengthen the message that the *apartheid* system is being eradicated. Such acts, according to the business leaders, would be crucial for the success of the negotiating process.

VI. MATTERS ENHANCING OR OBSTRUCTING THE PROCESS OF ENDING *APARTHEID*

182. All political movements, organizations and groups with whom the Team met welcomed the declared intention of the State President to embark on a policy for the dismantlement of the *apartheid* system, and to this end, to engage in a democratic process to develop a new constitution. Most believed that until the pillars of *apartheid* were removed racial discrimination would continue to divide the nation and the cause of human rights and social justice would not be served.

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183. They all urged the removal of the pillars of apartheid, namely the Population Registration Act, the Land Acts, the Group Areas Act and the Reservation of Separate Amenities Act, as well as all other laws and the practices that entrenched racial discrimination. At the same time, it was feared that if no concomitant programmes were immediately established to address the glaring social and economic inequalities that were the legacy of apartheid, the process towards creating the new South Africa could be obstructed. On the other hand, a number of initiatives taken by various sectors of society with the object of enhancing the process of change were brought to the Team's attention. These included: the rapprochement between the South African Council of Churches and the Dutch Reformed Church; the initiatives taken by business groups such as the Consultative Business Movement to debate the future economy of South Africa with political parties and movements; the activities of such other groups as IDASA to provide for forums for discussions on national issues; the efforts of civic organizations to negotiate with authorities on local issues; and the negotiations between COSATU and NACTU on one hand, and SACOLA on the other, that have led to proposals for amendments to the labour legislation. These efforts, which are parallel to the process of consultations being undertaken at the national level, assume great importance in establishing confidence on the future of the democratic process.

184. The State President's address of 2 February 1990 has already set in motion a flurry of legislative activity which is recorded below. At the same time, it has sparked debate within the nation as to the adequacy and earnestness of the Government's programme. The various points raised by political parties and movements, and by other concerned organizations, are similarly reflected in this section. They cover not only the pillars of apartheid but matters related to labour, education, housing and health.

A. Pillars of apartheid

Position of the Government

185. The Government's commitment to end discrimination was outlined in the National Party Plan of Action of September 1989. The State President provided more detailed information about the Government's strategy to end apartheid legislation in his statement to Parliament of 17 April. At that time, he said that the Group Areas Act would have to be replaced in an orderly manner and that, as outlined in the Plan of Action, until such time as effective and generally acceptable measures were substituted, the residential areas would be protected by the Group Areas Act. The new measures would have to have the support of the three Houses of Parliament. To be generally acceptable, such measures could not "institute any new form of discrimination on the grounds of race or colour", would have to "give communities peace of mind with regard to their wishes and ideals on a fair and just basis", would have to "accommodate the need and desire of some communities to be protected against financial exploitation", and would "not jeopardize civilized norms and standards". Until proposals were submitted next year on this matter, the State President said that the application of the Free Settlements Areas Act should continue.

186. On 17 April, the State President also declared that as a result of the obvious similarities between the Group Areas Act and the Land Acts, the same factors would be taken into account. Signalling the important constitutional implications involved in the Land Acts, particularly at the local government level, Mr. de Klerk stated that "any reforms with regard to the usage of the land will have to take into account the principles of free enterprise, security of tenure and vested property rights". He promised that any reforms would "include consultation with all affected groups, such as agricultural unions, municipalities, etc."

187. The State President made it clear on 17 April that the Population Registration Act, which differentiates on the basis of population group, is an inseparable part of the Constitution and the Electoral Act; therefore it must be "amended in conjunction with the existing constitution".

188. Referring to the "pillars of apartheid", the Minister for Foreign Affairs explained that the Reservation of Separate Amenities Act was being repealed in this session of Parliament and that the Group Areas Act and the Land Acts would be repealed during the 1990-1991 session of Parliament.

189. The Minister of Planning and Provincial Affairs also stated that the Reservation of Separate Amenities Act would be abolished at this session of Parliament and it was expected that the Group Areas Act would be abolished next year. While the Land Act and the Group Areas Act were to be repealed, their repeal had to be approached with care. Property rights were involved and protective legislation had to be negotiated. For example, black farmland could not now be purchased by whites, but should the Act simply be repealed, whites could purchase that land, to the detriment of the black population. Time was also needed to allow people to adapt to these new circumstances.

190. The Minister of Constitutional Development observed that the Land Acts and the Group Areas Act would be repealed early in January 1991, but that the Population Registration Act could only be repealed when the new constitution was negotiated because the two were inextricably linked. He believed that it might be necessary to keep some sections of the Land Acts to protect traditional land. But this would also be a result of negotiations.

191. The major response of the Government to social inequalities has been to provide a 3 billion rand fund for social upliftment. One million rand will be disbursed by the Parliament, and 2 billion will be managed as a trust fund under the leadership of the honorary Chairman of the Urban Foundation. The Team was informed that these funds would be spent mainly for housing, land and education.

Position of the national liberation movements

192. ANC emphasized that only when free and fair elections to a Constituent Assembly had taken place could it be said that "profound and irreversible changes" in the dismantlement of apartheid had occurred.

193. PAC called for the repeal of what it considered to be the pillars of apartheid namely, the Population Registration Act, the 1913 and 1936 Land Acts, on which was

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based the Group Areas Act, the Tri-cameral Parliament System, the Bantu Education System and the Bantustan System. Their repeal would establish the good faith of the Government.

Position of other organizations

194. The Solidarity Party did not feel that the Population Registration Act and Land Acts could not be repealed until a new constitution had been adopted, as the present Parliament was founded on those two Acts. The repeal of the Group Areas Act and the Internal Security Act, however, would be considered next year.

195. The Democratic Party wished to see the removal of the pillars of apartheid, but did not consider their removal as critical to negotiations.

196. Inkatha noted that the Separate Amenities Act had been repealed and that the Group Areas Act and the Land Acts would be repealed next year. It considered that the repeal of the Population Registration Act should wait until a new constitution was negotiated. It also believed that the Constitution Act, No. 110 of 1983, should be removed.

197. COSATU believed that the process of eradicating apartheid had to proceed in conjunction with a specific programme designed to redress socio-economic imbalances, otherwise serious socio-political dislocation could occur. NACTU deplored the fact that the pillars of apartheid were still in place and mentioned, in particular, the Bantu Education Act.

198. The South African Council of Churches said that while it was satisfied with the process of consultation, it believed that the State President had not yet introduced substantive changes that affected apartheid itself. Therefore, it felt that the Government needed to make a firm commitment to repeal the pillars of apartheid.

199. IDASA believed that the Group Areas Act should be repealed immediately. A group of academics with whom the Team met in Cape Town felt that the corner-stones of apartheid needed to be repealed. They believed that the black population needed a strong signal from the Government in the form of the immediate repeal of some of those Acts. However, there was a difference of opinion among the academics as to whether the Acts should be repealed before the negotiations commenced or following the adoption of a new constitution.

200. Civic organizations considered that while the Government was proceeding with some changes, the real test was the manner in which it addressed the problems created by apartheid, specifically the repeal of the pillars of apartheid. These should be abolished, together with the Internal Security Act. Until that had happened it could not be said that the process of change was irreversible.

201. NAFCOC said that there would be no real progress until the pillars of apartheid had been repealed and affirmative action taken. It felt that the dismantlement of apartheid was not a matter for negotiation.

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202. The Federation of South African Women considered that the impact of the repeal of the Reservation of Separate Amenities Act would be diminished as long as the Group Areas Act remained. It felt that the homeland system should be scrapped immediately rather than wait until a new constitution was adopted.

203. The Urban Foundation considered that the repeal of the Group Areas Act would contribute to the full development of blacks and that the recent repeal of the Reservation of Separate Amenities Act would make a difference in the life of the black population.

204. NADEL considered that the Population Registration Act should be repealed before negotiations begin. As long as the Act remained on the books, whites would continue to decide on the future and dominate the negotiations for a new constitution.

205. The Black Sash, referring to the State President's 2 February speech, said that in a short space of time organizations had to move from the "politics of resistance to the politics of nation-building". The *apartheid* legacy would not disappear soon because it had distorted all aspects of life, i.e. education, health, land distribution, etc. These would have to be taken into account in the future.

206. The Human Rights Commission called for the removal of the pillars of *apartheid*, stating that the recent repeal of the Reservation of Separate Amenities Act did not indicate a change of heart but was rather a recognition of reality. It stressed that *apartheid* should not be examined simply in terms of its statutory provisions, since it had infected the very heart of the country through a complex web of institutions and structures. It would take a major effort by the people of South Africa, supported by the international community, to reverse the situation.

B. Labour

207. It was represented to the Team that while in recent years some progress had been made in the pursuit of black workers' demands, the existence of racial discrimination on the job continued to be an issue of importance to black workers. It was considered that as long as regressive labour legislation was in place, entrenching racial discrimination and curtailing freedom of association and the right to withhold labour, no possibility existed to develop a healthy industrial labour relations system, important to the revitalization of the economy and within which effective negotiations could take place. In that regard, it was feared that continuing industrial conflict could be a serious obstacle to the process towards negotiations in the country.

Position of the Government

208. The Government informed the United Nations Team that the Labour Relations Amendment Act of 1988, which regulates industrial relations, was being revised and that consultations on the issue were in progress with the two major trade union federations, namely COSATU and NACTU, as well as with the South African Employers' Consultative Committee on Labour Affairs (SACCOLA). The 1988 Act provides that

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discrimination based on race can be regarded as an unfair labour practice by the Industrial Court. The anti-discrimination clause in the Act is enforceable through the courts. COSATU, NACTU, and SACCOLA (CNS) had reached an accord concerning amendments to the labour law and had proposed that they be translated into legislation during the current session of Parliament. Since many submissions had been received with respect to the amendments, all of which needed time to be studied, it would not be possible for Parliament to adopt this legislation during the current session. A Government proposal that sections of the law on which full consultation had taken place be passed at the present session and that the final revised bill be submitted to the next session of Parliament (February 1991) had received a negative response from the trade union federations. The Government emphasized that its policy was that provision should not be made for "racial unionism" in statutory enactments. It believed that in view of the National Manpower Commission's present major investigation into labour legislation, a visit by a Fact-finding and Conciliation Commission of the International Labour Organisation (ILO) to South Africa, as required by the COSATU complaint to ILO, at this stage, was premature. The Government had requested a meeting with the Director-General of ILO in Geneva to discuss this subject. It was interested in developing a labour code that would equal international labour standards as defined by ILO.

209. The Government informed the Team that it had requested that the National Manpower Commission study outstanding issues such as the provision in labour relations legislation for the protection of farmworkers. A bill providing for minimum conditions of employment for farmworkers will be published during 1990. Another issue, a trade union demand for a minimum wage, required careful consideration as it could worsen unemployment. Other issues such as job training and education as well as unemployment were of concern to the Government and initiatives were being undertaken to address them. For example, the Manpower Training Amendment Act, which had just been adopted, provides for improvement in training. Employers, as part of their social responsibility, were to contribute to the training of workers and the Government would provide incentives to companies in this regard. Concerning privatization, the Government stated that the issue had been "politicized". In cases of the privatization of industries, the Government was undertaking efforts to prevent the dismissal of workers and to reduce employment through a process of attrition.

Position of the labour movement

210. The two non-racial unions, COSATU and NACTU, pointed out that the provisions of the Labour Relations Amendment Act curtail freedom of association, entrench racial unionism and limit further the freedom to withhold labour, all of which contravene international labour standards recognized by ILO. They emphasized that after a long process of negotiations COSATU, NACTU and SACCOLA (CNS) had reached a historic accord in April 1990 recognizing that all workers were entitled to basic rights, including the freedom of association and the right to withhold labour. In order to address the difficulties introduced by the Act, the CNS accord included proposals to amend the labour law and the Government had undertaken to do so. ILO, they said, had played a supportive role in the process of discussing the proposed changes. The two trade unions expressed their strong disagreement with the

Government's decision not to legislate the necessary amendments to the labour law during the current session of Parliament.

211. Both federations considered that by not having the amendments legislated, the Government had disregarded both the CNS accord and the recommendation to accept the majority of the proposals made by its own advisory board on labour affairs. In view of the Government's decision, the federations would seek now a comprehensive review of the law. COSATU also informed the Team that it had lodged a complaint with ILO on the allegation that the LRA "fundamentally infringed international standards on freedom of association". COSATU therefore requested that the United Nations and ILO call upon the Government to: (a) submit to the jurisdiction of a fact-finding and conciliation commission; (b) give statutory effect to the accord by passing the proposed amendments to the labour law; and (c) recognize and give effect to the accord in so far as its own employees are concerned. COSATU stressed that the Government's undertaking to make the necessary amendments to the law was an "acid test" of the extent to which the Government could be relied on to fulfil commitments made by it during negotiations. COSATU and NACTU warned, therefore, about the inevitability of protest action and of heightened industrial conflict, all of which could hinder the overall process of negotiations.

212. Subsequently, a joint statement by COSATU and NACTU indicated that the State President and other Government officials had held a meeting with the federations' leaders to discuss the crisis that had arisen in connection with the labour legislation. According to the federations, the State President had endorsed the process of negotiations between the trade unions and the employers aimed at obtaining a national consensus on an acceptable labour law. All parties present at the meeting had agreed that a prompt resolution of the current crisis was needed and modalities to that effect were proposed for consideration.

213. Concern about the socio-economic inequalities created by *apartheid* has prompted COSATU to develop initiatives concerning job skill training and housing, among other issues. The federation considered that the Government's proposals in this regard are inadequate to the magnitude of the present problems and to their impact on a future society. COSATU informed the Team that it was undertaking a study of the economy and its prospects under a non-racial and democratic government.

214. It was stressed by both federations that the present labour legislation as well as the security legislation in place curtail freedom of association and the ability of trade unions to function. This circumstance affected negatively the otherwise positive developments in the country.

C. Education

215. The Team was struck by the consensus among all parties, organizations and professional groups it met on the imperative need to address the crisis in education.

216. It recalled that the Universal Declaration on Human Rights stresses the importance of education for the full development of the human personality and the

sense of dignity, and for enabling all persons to participate effectively in a free society to promote understanding, tolerance and friendship. Such principles were consistent with the provisions of the United Nations Declaration, which affirmed that all men and women have the right and duty to participate in their own government as equal members of the society.

217. Many of the groups that expressed concern with the educational crisis pointed out that the spirit and repercussions of the Bantu Education Act still permeated the present education system, resulting in vast discrepancies in literacy, school availability, teaching facilities, examination scores and education funding between black and white students.

Position of the Government

218. The Minister of Education and Training, who is responsible for education of the black population outside of the 10 homelands, stated that the educational system for them was inferior to that for the white population and this was an unacceptable situation. The question was not whether it should change, but how.

219. State-provided education for the black population was introduced for the first time in 1953. The approach of the Government then was to provide "full" education for blacks in the homelands and minimum education for blacks in South Africa. The turning point came in 1978, when the Government first accepted the fact that blacks were permanent residents in South Africa. A new Education Act was introduced at that time, which provided that blacks in South Africa were entitled to full education modelled on that available to whites.

220. Over the past decade, resources for black education have increased tenfold, or six times in real terms. Believing that immediate equality would cause so much disruption that it would outweigh the benefits, the Government has advocated a phased approach. Progress was also reported in improving the quality of black teaching staff. The percentage of underqualified or unqualified teachers has been reduced to 30 per cent from the 70 per cent of five years ago. The dramatic 6 per cent per annum increase in the black school population was cited by the Government as a major constraint in narrowing the gap between white and black education.

221. The Minister of Education and Training stated that the strict separation of schools was being phased out. The Minister of Education and Culture, who is responsible for white education, is introducing a policy whereby it will be left to white parents to decide to open their schools to all races. Part of the voluntary programme that will be implemented next year will permit local communities to decide whether to "privatize" their schools. Under current arrangements subsidies to private schools are reduced once the black enrolment exceeds 40 per cent. Catholic schools have been particularly disadvantaged by this policy. However, schools privatized under the new scheme would continue to receive virtually a 100 per cent government subsidy, whatever the ratio between black and white pupils might be. No financial incentives are envisaged at this time to encourage localities to desegregate their schools. The Minister of Education and Training stated that no discrimination exists at the tertiary level of education.

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222. The Team also was informed that the Government is concerned about people using schools as a political tool and creating so many problems on a daily basis that they are souring relations.

Position of national liberation movements and other organizations

223. ANC expressed the hope that the international community would help resolve the educational crisis faced by the black population in South Africa. It warned that South Africa was sitting on a powder keg which could explode at any moment if immediate action was not taken. The PAC called for the immediate repeal of the laws governing and controlling black education.

224. The National Education Crisis Committee (NECC) and other groups also expressed serious concern about the state of black education. It was reported that education was still not compulsory for black children. There were 17 distinct departments of education in spite of continuing demands for a unitary system.

225. According to information provided by the NECC, approximately 50 per cent of the black school age population did not attend school because of lack of funds or facilities. There was a shortage of over 165,000 classrooms in black primary and secondary schools, while an excess capacity of 177 schools and 308,000 seats exists for whites. Only 3 of every 1,000 blacks have a university degree, while the comparable figure for whites is 35 per 1,000. The acute shortage of qualified teachers was the direct result of deliberate apartheid policies.

226. As evidence of the deterioration in the quality of education, it was pointed out that only 41 per cent of the blacks who took the matriculation examination at the end of high school passed in 1989, as compared to a pass rate in 1987 of 51 per cent. Only 9 per cent in 1989 passed at a high enough rate to be eligible to enter the university. Even lower matriculation examination pass rates are anticipated this year.

227. NECC stated that at the height of the state of emergency tens of thousands of black students had been expelled, or had dropped out of schools. Following back-to-school campaigns launched by community groups at the end of last year, 10,000 students had returned to school in Soweto alone. However, as the Department of Education and Training had only projected a student enrolment in Soweto of 4,500, adequate funds were not available for salaries, textbooks and other supplies. During the month of June, there were seven different marches, sit-ins, demonstrations and stayaways in Soweto, Durban, Cape Town and Johannesburg to protest such educational concerns as insufficient textbooks, teachers' working conditions, unequal salaries between male and female teachers, the Department's system of inspection and broken school facilities.

228. The South African Chamber of Business stressed the imbalance between the output of an inadequate educational system and the needs of the economy as being a crucial problem that cut across the colour barriers. The big challenge was to ensure that people were employable. The challenge was even greater when seen in conjunction with the imbalance between the growth of population and the availability of jobs. It was stated that, in the 1980s, there had been an annual

average increase of 230,000 new job seekers on the market while only 80,000 new jobs had been created per year.

229. The Black Sash described the situation in the following words: "we have produced a generation of illiterate, untrained, politicized and unemployed black youth". In its written submission it noted that in the process the young have sacrificed their youth, their education, their innocence. They cannot regain the lost years. This is the tragedy of the young black generation, but it is also true of the white youths who have been indoctrinated and trained to believe that it is worth fighting to the death to preserve an ethnic identity.

D. Housing and land issues

230. The repeal of the Pass Laws and the end of influx control in 1986 accelerated the large-scale migration of blacks to urban areas in search of employment and a better way of life. This has created problems of overcrowding, a significant expansion of squatter settlements and severe pressures on urban services. The magnitude of the problem, according to the Urban Foundation, can be gauged by the fact that 7 million, or one out of five of the black population, lack permanent shelter.

Position of the Government

231. As discussed at the beginning of this chapter, the State President has announced that the Group Areas Act and the Land Acts will be reviewed by the Parliament early next year.

232. Several changes in land policy have occurred since January 1990. In response to popular uprisings, the Government announced in May that independence for the non-independent homelands was no longer a viable option. Moreover, the incorporation of land into the self-governing homelands will not take place without the approval of the lawful inhabitants. The Government also announced that the 2 million hectares reserved for blacks and owned by the South African Development Trust would be leased or sold to black farmers. At present, blacks live on this land as rent-paying tenants.

233. The Minister of Planning and Provincial Affairs said that the Government was making an effort to address the problems caused by the rapid urbanization of blacks since 1986. This year, 300 million rand has been allocated to purchase land on which people can build houses.

234. The Government does make a distinction in its treatment of squatters who erect structures on land they can legally occupy under the Group Areas Act and land they occupy illegally, either because it is not reserved for blacks or because it is owned by someone else. According to the Minister of Planning and Provincial Affairs, the Government evicted people only when "suitable and acceptable" housing could be found elsewhere.

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Position of movements and organizations

235. Representatives of civic associations and community service groups welcomed the proposed changes in land policy, but expressed concern about privatization efforts that could lead to land speculation and dispossession in areas formerly reserved for blacks or coloureds. In explaining the problem with rural land tenure, one group said that although the Government has stated that incorporation of land into self-governing homelands would not continue without the approval of the lawful tenants, such incorporations still take place. In addition, some of the homelands were trying to privatize their land, while other homeland communities maintained that there should be a moratorium on such sales.

236. According to information provided by the National Land Committee, most blacks live on land held communally, or as rent-paying tenants on land administered by the South African Development Trust. According to the Committee, the announcement by the Government that 2 million hectares of Development Trust land would be available for sale or lease to black farmers, contrary to the previous controversial policy of incorporating it into homelands, raised concerns about the possibility of land speculation, and its suitability for farming. It was also stated that black farmers generally have neither adequate infrastructure nor access to such financial assistance. The development banks in the homelands tend to allocate their resources mainly for large infrastructure projects, rather than for agricultural credit for farmers.

237. The Urban Foundation said projections indicate that South Africa's population will expand from 30 million in 1980 to 60 million in 2010. The black percentage of the population will increase from 71 per cent to 82 per cent during this period. Commenting on the high rate of urbanization, it was expected that the number of persons living in urban areas will increase from 9 million in 1980 to 27 million by the year 2010.

238. According to the Urban Foundation, the housing situation was appalling. The backlog in housing in the urban areas alone was 850,000 units. Although 130,000 housing units needed to be produced annually to meet the demand, only 40,000 units were built last year.

239. Members of civic associations complained of serious overcrowding and spiralling rent increases in townships and newly-opened urban areas. Private groups, such as the Urban Foundation, have assisted black people to obtain housing and leasehold and freehold tenure rights. However, they contended that the two major constraints to black home ownership were affordability and the pace of delivery. In 1989, the Urban Foundation said it was responsible for the creation of 5,000 houses and serviced lots, making their programme the largest housing scheme for blacks in the country. The Foundation also mentioned that it had set up an agency that assisted black businessmen in competing for building contracts in the housing industry.

240. The Team was informed by some associations that the Government's black town councils in the townships were not viable. Black townships receive lower subsidies than the white townships and they have no tax levying powers. As a result there has been a serious deterioration in services.

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241. The Black Sash explained that the rapid movement of blacks into urban centres, particularly after 1986, had been followed by pressures to vacate land near white residential areas. Local authorities and landowners sought legal action to remove blacks through the use of the Trespass and the Prevention of Illegal Squatting Acts. According to the group, the Government was recognizing that it could not prevent black urbanization, so it now sought to control it and make it orderly.

242. The Urban Foundation felt that a careful study of land policy and rights was required to protect black interests prior to the repeal of the Land Acts. By establishing multiple authorities, the Land Acts created a complex system. For instance, six different bodies exercised authority over land in Natal. One can travel three kilometres and go through five jurisdictions.

E. Health care

243. Inadequate health services and preventable disease arising from poverty and poor social conditions were matters high on the agenda of a number of anti-*apartheid* groups. Both the Government and movements and organizations agreed that urgent action was required to address the health needs of the black population.

Position of the Government

244. Following its decision to eliminate discrimination in health and recognizing that there was no statutory requirement that such facilities be separate, the South African Government announced on 16 May that provincial hospitals would be open to all groups. The Minister of Health stated that the new policy is intended to introduce greater equality in the health care system where there is an excess capacity of 11,700 beds in white hospitals and a 7,000 bed shortage in black hospitals. Instructions on the new policy, which provides that no person may be rejected or turned away on the grounds of race or colour, have been sent to all hospital superintendants.

245. The Minister also stated that the abolition of influx control and the resulting acceleration of urbanization by blacks had created a great need to expand primary health care centers. To address this need, the Government plans to allocate additional funds and resources to commission the establishment of 21 primary health clinics that will concentrate on health education, immunization, maternal and child care and sanitation. A network of clinics will be developed. The new policy represents an important shift in health care policy, which in the past has allocated 43 per cent of the health budget to 13 academic teaching hospitals and to specialized high-technology procedures. Such a shift in policy will affect the training of health care professionals.

246. Since 79 per cent of the people in South Africa depend upon the State for health care, and 20 per cent of those cannot afford to pay for expensive procedures, the Government faces formidable costs in trying to provide health care for all.

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247. As needs vary by province, the Minister indicated that she had asked for a study of each region in order to elaborate an appropriate strategy and the development of new facilities by region as part of a five year plan.

248. Among the other health problems cited by the Minister were the care of the elderly, ensuring the treatment of widespread diseases such as tuberculosis and diarrhoea-related illnesses and teaching traditional medical practitioners how to detect such important diseases as tuberculosis and AIDS. The Minister announced that the Government would introduce legislation in the current session of Parliament that reflected the move towards a unitary health system.

Position of black health organizations

249. The Government's decision to open the hospitals to all races was welcomed by the two black health groups, namely the National Medical and Dental Association (NAMDA) and the South African Health Workers' Congress (SAHWCO). They were afraid, however, that this decision could be circumvented by entrenched attitudes at the local level. They also contended that the Group Areas Act would tend to neutralize the impact of the new policy. According to SAHWCO, the Government spends 451 rand on health care for white patients and only 115 rand on black patients. Even greater disparities exist in infant mortality rates. Whereas 12 white babies per 1,000 die at birth, the same rate for blacks ranges from 94 to 124 per 1,000.

250. Among the obstacles to the improvement of health care for blacks, NAMDA and SAHWCO identified the fragmentation of the health management structures into 13 or 14 different departments and the unequal level of resources and health insurance available to blacks. In addition, malnutrition, female illiteracy, income inequalities, particularly in rural areas, poor occupational health and safety conditions and the prerogatives given to local authorities, remained issues of concern. The two groups advocated a non-racial health system based upon equality, accessibility and affordability.

VII. CONCLUDING REMARKS

251. The United Nations Team had the opportunity during its visit to meet with eight Cabinet Ministers and with representatives of 39 political parties, movements and organizations. Having listened carefully to their views on the current situation in South Africa, it was not possible for the Team to leave the country without having formed some definite impressions of the concerns uppermost in the minds of the South African people.

252. South Africa has reached the threshold of a new era. The political process on which it has embarked holds encouraging prospects of leading to the dismantlement of *apartheid*.

253. A national debate has begun on the adequacy of the measures that have been initiated to establish a climate conducive to negotiations, and on additional measures that need to be taken to satisfy the aspirations of the South African people.

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254. There is a general perception that the path taken by the Government offers real promise for constructive political discussion and represents a significant change from the position of its predecessors. Yet, there is also a widespread belief that a number of additional steps are required to establish an atmosphere favourable to free political activity. *Apartheid* laws, repressive security regulations, and persistent violence, including that prevailing in Natal, continue to adversely affect domestic tranquility, as well as the sense of security and well-being of the people. So long as racial attitudes persist and *apartheid* structures at the local level remain, the process for change will encounter difficulties.

255. These issues need to be addressed as a matter of urgency. They would undoubtedly facilitate the process of broad consultations among all political forces on the mechanisms appropriate for framing a new constitution and for shaping the political, social and economic future of the country. Moreover, a series of confidence-building measures designed to reduce politically-related violence and address acute social and economic problems affecting the black population, would strengthen this process.

256. Fundamental change in any society often creates uncertainty, anxiety and even fear. These emotions should not be underestimated, particularly in a country of vast inequities, such as South Africa. Despite these real concerns, the challenge of nation-building and the growing desire to build a future different from the past has already begun to stir the people of South Africa in ways that hold the promise of profound and beneficial change.

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APPENDIX

Itinerary and list of interlocutors

Saturday, 9 June 1990	Arrival in Cape Town
Sunday, 10 June	Meetings with: the Black Sash; representatives of the ANC Constitutional Committee; representatives of PAC (Western Cape Region)
Monday, 11 June	Meetings with: ANC/UDF (Western Cape Region); the Institute for a Democratic Alternative for South Africa (IDASA); University Rectors; the Solidarity Party; the Azanian People's Organization (AZAPO)
Tuesday, 12 June	Meetings with: the Minister of Education and Development Aid; Civic Leaders from the townships of Khayelitsha and Crossroads; Editors of local newspapers; the Minister of Health and Population Development; the Democratic Party; the Minister of Law and Order; the Minister of Finance; the Minister of Constitutional Development
Wednesday, 13 June	Meetings with: the Minister of Planning and Provincial Affairs; the Minister of Manpower; the Reverend Allan Boesak (President, World Alliance of Reformed Churches); the Director-General of the Ministry of Foreign Affairs; Academics; the Archbishop Desmond Tutu (Anglican Archbishop of Cape Town) Departure for Durban/Pietermaritzburg
Thursday, 14 June	Meetings with: the regional leadership of ANC/UDF/COSATU; civic ANC/UDF leaders from Pietermaritzburg; civic Inkatha leaders from Pietermaritzburg; the Administrator of Natal; an inter-denominational group of church leaders
Friday, 15 June	Meetings with: the National Association of Democratic Lawyers; Inkatha Departure for Johannesburg Meetings with: the South African Council of Churches; the Consultative Business Movement (CBM); the National African Federated Chambers of Commerce (NAFCOC)

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Saturday, 16 June	Meetings with: the League of Red Cross Societies; Editors of local newspapers and the South African Broadcasting Corporation; the International Committee of the Red Cross; the Reverend Frank Chikane (Secretary-General of the South African Council of Churches)
Sunday, 17 June	Meeting in Soweto with: Mrs. Albertina Sisulu (Federation of South African Women) Meetings with: Editors of the alternative media; the Detainees' Support Committee; the Human Rights Commission; the National Land Commission
Monday, 18 June	Meetings with: the Urban Foundation; the Institute of Race Relations; the National Education Crisis Committee; the National Council of Trade Unions; the South African Chamber of Business; the leadership of PAC; the leadership of ANC and UDF; the Boerstaat Party
Tuesday, 19 June	Meetings with: the Congress of South African Trade Unions; the National Medical and Dental Association (NAMDA); the South African Health Workers' Congress (SAHWCO); the Independent Board of Inquiry into Informal Repression; the South African Youth Congress; the national umbrella organization of civic organizations Meeting in Pretoria with: the Minister for Foreign Affairs and his senior officials Departure for New York

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ANNEX II

Information provided by Governments relating to the progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa

AUSTRALIA

[Original: English]

[References to Australian assistance have been written on the assumption that this material will be published after 1 July.]

1. The Australian Government remains seized of the issue of a political resolution of the South Africa question. Australia has consistently called for a negotiated settlement to South Africa's political crisis involving the full and free participation of legitimate representatives of the South African people. Australia has warmly welcomed the steps taken by the South African Government to normalize the political situation inside South Africa and initiate genuine negotiations with representative black leders. Australia has taken every opportunity to encourage all parties in South Africa to keep up the momentum in removing the obstacles remaining to such negotiations on a new constitutional dispensation.

2. The Australian Government has stepped up its long-standing support for the opponents of apartheid. Both the African National Congress (ANC) and the Pan Africanist Congress of Azania (PAC) continue to maintain offices in Australia. Australia's Minister for Foreign Affairs and Trade travelled to Lusaka to meet with ANC Deputy President Mandela and other senior ANC leaders in March 1990. He also met the ANC delegation, including Deputy President Mandela, at the meeting of Commonwealth Foreign Ministers on Southern Africa held at Abuja from 16 to 17 May 1990.

3. Australia has taken a lead in campaigning internationally for an increase in support for the opponents of apartheid. Australia joined other members of the Commonwealth Committee of Foreign Ministers on Southern Africa in welcoming initiatives to provide support for the process of dialogue and negotiations and calling on all Governments to make more sources available for aid to the victims and opponents of apartheid, with particular reference to the costs involved in the repatriation and resettlement of South African exiles.

4. On 17 May 1990, the Australian Government announced that it would provide $A 15 million over the next three years to assist in the reintegration and development of South African victims of apartheid. The majority of the new funds will be earmarked for assistance to ANC for humanitarian and educational activities. Up to $A 2 million will be available immediately to assist with the repatriation and resettlement of exiles, estimated to number in excess of 20,000 people.

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5. Australia continues to use concerted and effective measures, including the full observance of the mandatory arms embargo, aimed at applying pressure to ensure a speeedy end to apartheid. Australia has implemented the full range of sanctions measures adopted by Commonwealth Heads of Government at their meetings in Nassau (1985) and London (1986). The Australian Government remains committed to the Commonwealth's Gleneagles Declaration on sporting contacts with South Africa.

6. Australia sees no immediate reason to contemplate relaxation of existing sanctions and pressures until the commitment of the South African Government is visibly demonstrated by at least some degree of performance in dismantling the pillars of apartheid. The Australian Government has taken an international lead in efforts to ensure that the international community does not relax existing measures aimed at placing pressure on the South African régime to implement meaningful change as envisaged in the Special Session Declaration. Australia's Minister for Foreign Affairs and Trade, together with other members of the Commonwealth Foreign Ministers Committee on Southern Africa, wrote to EC and G7 Governments urging the continued application of sanctions until substantive change has occurred, clearly and irreversibly. The letter was delivered by the Australian Mninister for Foreign Affairs and Trade to the Presidency of the European Community (EC) (Eire) and will be followed up in his discussions at the May EC Ministerial talks.

7. Australia continues to render assistance to the front-line and neighbouring States through its Southern Africa Aid Programme of $A 110 million over the triennium 1990/91 to 1992/93. Australia has continued to support the people of Namibia, through an allocation of up to $A 6 million in the current triennium of the Southern Africa Aid Programme. Up to June 1990, Australia spent approximately $A 13.9 million on South Africans disadvantaged by apartheid through the SAPSAN programme since its establishment in 1986/87. The SAPSAN programme is designed to support efforts to prepare for a post-apartheid South Africa, particularly through the sponsorship of education and training activities. Significant humanitarian assistance has also been provided to meet the needs of refugees being relocated in the front-line States and, more recently, $A 200,000 was allocated to assist the victims of violence in Natal province.

8. The Australian Government has extended assistance to the Governments of Angola and Mozambique and has supported their efforts to find peaceful solutions to the internal conflicts in their respective countries. Australia has a substantial programme of assistance to Mozambique, amounting to $A 19 million for development activities over the next triennium. This assistance will be channelled primarily through the Special Comnmonwealth Fund for Mozambique. Australia has been the largest contributor to the Special Commonwealth Fund with pledges totalling $A 5.45 million. Australia has also allocated to Angola $A 1 million over the next thre years under its Southern Africa Aid Programme. In addition, Australia provides emergency assistance on a needs basis.

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BULGARIA

[Original: English]

The People's Republic of Bulgaria has repeatedly confirmed its condemnation of the policy of *apartheid* pursued by the South African Government. Bulgaria is of the view that it would be impossible to build lasting peace and co-operation in southern Africa without establishing a new constitutional order in that country based on the principles of the Charter of the United Nations and the Universal Declaration on Human Rights.

The People's Republic of Bulgaria has always actively supported the struggle of all democratic and anti-racist forces in South Africa aimed at the complete elimination of the system of racial segregation. These efforts, supported actively by the international community, have already led to positive changes in the country. The Bulgarian Government issued a special declaration welcoming the release of Nelson Mandela, the outstanding fighter for human rights and social justice.

Bulgaria continues to adhere to the respective resolutions of the United Nations, particularly to the Declaration on *Apartheid* and its Destructive Consequences in Southern Africa, adopted at the sixteenth special session of the United Nations General Assembly, calling for international isolation of the Pretoria régime. The Bulgarian Government does not maintain political, economic, trade and cultural relations with the South African authorities.

The People's Republic of Bulgaria has extended its consistent support and assistance to the democratic forces and movements fighting against *apartheid* in South Africa.

Special attention is being paid to promoting co-operation with the front-line States. A concrete expression of this is Bulgaria's participation in the Africa Fund with the sum of $US 1.5 milion earmarked for scientific and technical assistance and for training of personnel.

The Government of the People's Republic of Bulgaria and the Bulgarian public are convinced that the processes of democratic changes in South Africa will lead to the triumph of the ideals of the struggle against *apartheid* and to the establishment of a united, non-racial and democratic State.

CANADA

[Original: English]

1. The Government of Canada is using concerted and effective measures, including full observance of the mandatory arms embargo, to apply pressure to ensure a speedy end to *apartheid*. In this regard, the Prime Minister of Canada made the following statement in the House of Commons:

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The time will no doubt come, sooner rather than later, we hope, when clear and irreversible change has occurred and it will be appropriate to ease some of the pressure that has helped bring it about. But, at this crucial juncture, we believe the way to advance the process of democracy in South Africa is to maintain existing sanctions.

2. Canada has also continued to provide assistance to the front-line States in the form of financial, material and technical resources.

DENMARK

[Original: English]

1. Denmark has consistently condemned the system of apartheid and time and again urged the international community to put pressure on the South African Government to ensure the immediate and total abolition of apartheid.

2. The Danish Government attaches the greatest importance to the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by consensus at the sixteenth special session of the General Assembly on 14 December 1989.

3. It is our firm belief that the unanimity demonstrated by the world community on that occasion layed a significant role in persuading the South African Government of the need to take steps towards creating the necessary climate for negotiations on the future of South Africa.

4. The Danish Government welcomed the measures announced by Preisent de Klerk on 2 February 1990, the subsequent release of Nelson Mandela, and, not least, the first formal meeting between the South African Government and ANC in Cape Town from 2 to 4 May 1990. We urge all concerned to continue on this positive and constructive path.

5. However, the basic structures of apartheid are still in place. The Danish Government will therefore continue to exert pressure on the South African Government to take the necessary steps to enable dialogue and peaceful change to take place in South Africa. Until there is clear evidence that profound and irreversible change has taken place, Denmark will maintain its restrictive measures, including its far-reaching economic and other sanctions, in accordance with the Programme of Action contained in the Declaration on Apartheid. Concerning details of the measures taken by the Danish Government, reference is made to previous reports on the implementation of the annual General Assembly resolutions on concerted international action for the elimination of apartheid.

6. Furthermore, Denmark will continue its considerable humanitarian, legal, educational and other assistance to the victims of apartheid. The support to the victims of apartheid has increased continuously over the years, and in 1990 the amount will total 80 million Danish kroner.

7. Finally, Denmark intends to continue its strong support for the endeavours of the front-line States and other neighbouring States through bilateral development assistance, assistance through the Southern African Development Co-ordination Conference (SADCC), and through other multilateral channels.

FEDERAL REPUBLIC OF GERMANY

[Original: English]

1. The Federal Republic of Germany reaffirms its suupport for the goals and measures set out in the Declaration on *Apartheid* and its Destructive Consequences in Southern Africa, dated 14 December 1989. Together with its European partners it participated actively in bringing about the international consensus impressively reflected by the adoption of the Declaration. The Declaration, backed by the entire international community, is a milestone along the road to the final and peaceful elimination of *apartheid*. It did not fail to make its political impact, as the recent encouraging developments in South Africa show.

2. The Federal Republic of Germany confirms its conviction, which it has expressed on numerous occasions within and outside the United Nations: the degrading system of *apartheid* cannot be reformed, it must be abolished and replaced by a liberal, democratic and equitable social system. To attain this goal, the Federal Republic of Germany has for a long time been exerting strong influence on the Government of South Africa both bilaterally and in unison with its European partners. It appeals to the leaders in South Africa to proceed further along the route recently embarked upon and at last to enter into a national dialogue so that the foundations can jointly be laid for creating in South Africa a system truly characterized by freedom, and in which both the present population and coming generations can live and work together in conditions of justice, peace and solidarity.

3. The Federal Republic of Germany is aware of its responsibility for the people in Africa and acts accordingly. The common goal of peacefully overcoming *apartheid* is served above all by the positive and restrictive measures *vis-à-vis* South Africa which the Federal Republic of Germany adopted with its European partners in 1985 and 1986 and has been systematically implementing. In addition, it makes use of its bilateral opportunities and contacts to press for swift and definitive changes in South Africa.

4. To carry out the programme of action described in the Declaration on *Apartheid*, the Federal Republic of Germany has in particular taken or continued the following measures:

(1) In its committed struggle against *apartheid*, the Federal Republic of Germany fully meet its obligations arising from the mandatory arms embargo imposed by the United Nations Security Council in 1977. Long before that, from 1963 onwards, the Federal Government had no longer approved any supplies of weapons and other military equipment to South Africa. After the Security Council decision of 5 November 1977 it

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supplemented and tightened the relevant regulations, thus fully incorporating into domestic law the mandatory arms embargo and the recommendatory provisions of the pertinent resolutions on apartheid, especially Security Council resolution 591. This consistent policy aimed at the elimination of apartheid is also manifest in the wording of the ministerial decision on European political co-operation of September 1985, pursuant to which supplies of sensitive goods intended for the police and armed forces of South Africa are no longer authorized in the countries of the European Community. Any violations are prosecuted in the Federal Republic of Germany.

(2) The restrictive measures taken by the Federal Republic of Germany for the abolition of apartheid are based on the decisions made by the foreign ministers of the European Community countries in Luxembourg on 10 September 1985 and in Brussels on 16 September 1986. The Federal Government will maintain these measures until there is clear evidence of profound and irreversible changes in South Africa in keeping with the Strasbourg Declaration of the European Council of 9 December 1989. It monitors fully the application and implementation of these measures.

(3) To counter the consequences of apartheid and mitigate them for the people concerned, the Federal Republic of Germany has also taken a number of supportive measures. It has for some time been sponsoring projects in South Africa which are, in its view, likely to help overcome apartheid and its consequences. They include above all scholarship and training programmes for black South Africans as well as activities concerning health care, rural development and promotion of the arts. These projects have an annual financial volume of roughly DM 6.1 million. In addition, the Federal Republic of Germany contributes to the EC Commission's programme of positive measures, which involves a total of approximately DM 50 million. The Federal Republic of Germany's long-standing assistance for the opponents and victims of apartheid was also continued and expanded in 1990. In the 1990 fiscal year a substantial voluntary contribution is again being made to the United Nations Educational and Training Programme for Southern Africa. A corresponding contribution is earmarked for the United Nations Trust Fund for South Africa, which serves to finance legal assistance to persons politically persecuted under the apartheid laws as well as their dependents. A sum of DM 235,000 was again pledged for the United Nations Fund for Namibia in 1990. As Namibia has meanwhile become independent, the use of this amount will be decided on together with the new Namibian Government.

(4) The Federal Republic of Germany backs national and international efforts aimed at achieving a cease-fire and lasting peace in Angola and Mozambique. In the context of European political co-operation, the Twelve Members of the European Community adopted on 5 April 1990 at the suggestion of the Federal Republic of Germany a declaration on the situation in Angola, in which the conflicting parties are called upon to agree on a cease-fire and to enter into direct talks. In the declaration, the Twelve also announced substantial assistance for the

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reconstruction of the country, once a peace process has been effectively initiated. The Federal Republic of Germany has earmarked DM 38 million for development co-operation with Angola in 1990 in the hope that such co-operation can be started before the end of the current year. The Federal Republic of Germany regards humanitarian aid for Angola and Mozambique as an important contribution towards fostering peace and security in the region. In 1989 it therefore made available DM 5.4 million to assist refugees there. So far this year DM 2.5 million has been disbursed as humanitarian aid. For years now the Federal Republic of Germany has also been supporting projects in the context of "Operation Hunger" for the benefit of disadvantaged sections of the South African population.

(5) The Federal Republic of Germany has at all times backed the front-line and neighbouring countries in their struggle against apartheid and in repelling South Africa's policy of destabilization. For the 1988/89 biennium alone it made available bilateral assistance amounting to about DM 675 million for those countries, which are all members of the SADCC. In addition it bilaterally supported SADCC co-operation in the same period with an amount of DM 70 million. In 1989, agreements were concluded with the front-line countries of Mozambique and Zambia on the cancellation of debt from bilateral financial co-operation totalling DM 750 million (Mozambique: DM 180 million; Zambia: DM 570 million). For development co-operation with the now independent State of Namibia, a sum of DM 100 million is envisaged for 1990 for the first time. The food aid additionally granted by the Federal Republic of Germany to countries in southern Africa in 1989 amounted to DM 25.8 million. The Federal Republic of Germany will continue its co-operation with the SADCC countries and undertake every effort in future, too, to help them make economic progress. The Federal Republic of Germany hopes that the initial talks between the ANC leaders and the South African Government will soon be followed by negotiations leading to the abolition of apartheid and the joint drafting of a new constitution which ensures justice for all South Africans. South Africa now has the opportunity to become a democratic country free of racism. All of us should seek to ensure that this happens quickly. The Federal Republic of Germany is willing to do so.

FINLAND

[Original: English]

1. The main elements of Finnish policy towards southern Africa continue to be assistance, on one hand, and sanctions on the other. The objectives of our assistance are to alleviate the effects of South Africa's policy of apartheid and to contribute to development and democracy throughout southern Africa. Our economic sanctions against South Africa include a trade embargo as well as a ban on loans, on involvement in lending consortia and on the sale of new patents to and new investments in South Africa.

2. Finland welcomes the recent positive developments in South Africa. In the present situation. it is of utmost importance that the promising dialogue between the Government and the African National Congress in particular continues and develops. The Groote Schuur Minute of 4 May 1990 embodying their common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter as well as commitment to stability and to a peaceful process of negotiations can provide a basis for further progress. It is an encouraging step towards the realization of the objectives set out by the international community last December in the Declaration on Apartheid and its Destructive Consequences in Southern Africa.

3. At their meeting in Finland last March, the Nordic Foreign Ministers agreed that the positive developments in South Africa made it necessary to review the joint Nordic Programme of Action against Apartheid. Consequently, the Nordic countries have modified their joint guidelines concerning the issuance of visas to South African citizens with a view to broadening possibilities for contacts which contribute to further dialogue in South Africa.

4. However, as the pillars of the apartheid system remain in place, Finland does not regard it opportune as yet to lift its economic sanctions against South Africa. If reforms in South Africa continue, as we hope, we will review our policies accordingly.

5. In keeping with the Nordic Programme of Action, Finland has significantly widened its co-operation with South Africa's neighbours, the members of the Southern African Development Co-operation Council (SADCC). One third of Finland's direct development assistance goes to SADCC countries, with the purpose of assisting them in their economic development, thereby reducing their dependence on South Africa.

6. Finland gives humanitarian assistance to the victims of apartheid through multilateral channels as well as bilaterally. Finland supports the activities of the United Nations Educational and Training Programme for Southern Africa as well as those of the United Nations Trust Fund for South Africa. We have also supported the humanitarian anti-apartheid activities of the ANC as well as the activities of other non-governmental organizations providing a variety of services to the victims of apartheid both inside South Africa and abroad.

FRANCE

[Original: French]

1. France has for many years been working for the total eradication of apartheid in southern Africa. For this purpose, it pursues an active policy on two fronts: by applying a series of restrictive measures and by implementing a programme of assistance for victims of racial discrimination. France has frequently made public the full list of restrictive measures which it has adopted either at the national level or together with its European partners. Besides military matters, these measures address other items such as economic, nuclear, scientific, cultural and sports co-operation. In this respect, it should be noted that France's intention is not to impose punishments or penalties but to exert pressure in order to hasten a process which we believe to be just and inevitable.

2. For France, a progressive relaxation of the restrictive measures can be contemplated only in the light of the results of the negotiations under way in South Africa. The French Government believes, in this connection, that the South African Government must lift the state of emergency and release all political prisoners.

3. France urges a continuation of the dialogue between the parties as the only way of moving forward. In this context, the constructive atmosphere which has prevailed in encounters between the South African Government and the black nationalist movement augurs well for progress in the near future towards the dismantling of apartheid.

4. The French Government has always done its utmost to help the victims of apartheid through a programme which hinges on training, health and legal assistance. The total value of such programmes will amount to 8 million francs in 1990.

5. Finally, France has, with its European partners, engaged in intensive diplomatic activity with a view to persuading the South African Government of the need to embark on fundamental reforms. These diplomatic measures represent a significant contribution to action by the international community to eliminate apartheid in South Africa.

IRELAND a/

(Original: English]

Declaration on Southern Africa

The European Council welcomes the important changes that have taken place in southern Africa since it met in Strasbourg.

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a/ On behalf of the Twelve member States of the European Community.

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The European Council warmly welcomes the successful conclusion of the process of bringing Namibia to independence with a constitution based on multi-party democracy and human rights. The European Community and its member States will continue to give aid and support to the people of Namibia as they build their new country, in particular in the framework of the new Lomé Convention. They welcome the talks which have taken place between the Angolan Government and UNITA under Portuguese auspices. They look forward to the resolution of the conflict in Angola and also of that in Mozambique through dialogue.

The European Council greatly welcomes the significant changes that have taken place in South Africa in recent months: the release of Nelson Mandela and of other political prisoners; the unbanning of political organizations; the substantial lifting of the state of emergency; the commitment by the Government to abolish the *apartheid* system and to create a democratic and non-racial South Africa, and its willingness to enter into negotiations on the future of South Africa with the representatives of the majority.

They pay tribute to the parts played in bringing about these changes by President F. W. de Klerk and Mr. Nelson Mandela. The efforts of President F. W. de Klerk to bring about a new era in South Africa are testimony to his foresight and courage. Mr. Nelson Mandela, a prisoner for 27 years, has inspired millions of South Africans opposed to *apartheid* and thereby amply demonstrated his qualities of statesmanship, qualities that will be required in the challenging period ahead in South Africa.

The objective of the European Community and its member States is the complete dismantlement of the *apartheid* system, by peaceful means and without delay, and its replacement by a united, non-racial and democratic state in which all people shall enjoy common and equal citizenship and where respect for universally recognized human rights is guaranteed. They welcome the joint commitment between the South African Government and the ANC in the Groote Schuur Minute to stability and a peaceful process of negotiations. They call on all parties in South Africa to endorse this objective. It is the intention of the European Community and its member States to encourage, by every means available to them, the early opening of negotiations leading to the creation of a united, non-racial and democratic South Africa.

Negotiations on a new South Africa should get under way without delay. The substantial progress made towards removal of the obstacles represented by the state of emergency and the detention of political prisoners is welcome. The European Council looks forward to early agreement between the South African Government and the ANC on the conditions in which exiles can return and on the definition of political prisoners leading to their release. The European Council calls on all parties to remove the remaining obstacles to peaceful negotiations and to refrain from violence or advocacy of violence.

The European Council fully recognizes that a new post-*apartheid* South Africa should be able to avail itself of all the economic resources, including access to external finance, required to ensure its future prosperity and the full development of all its people. South Africa faces acute socio-economic problems, especially in the areas of employment, education and housing, against a background of a high rate of population growth. These problems have been greatly exacerbated by *apartheid*. Positive action is needed to rectify imbalances.

Through the programme of positive measures, the Community has, for a number of years, been providing assistance to the victims of *apartheid*. In the light of the recent developments in South Africa and as a strong signal of political support to those disadvantaged by *apartheid* and of the will to contribute to a new socio-economic balance, the Community intends to increase the funds being made available under its programme and to adapt the programme to the needs of the new situation, including those connected with the return and resettlement of exiles. It welcomes the positive attitude being displayed by all parties, including the new South African Government, to such programmes.

At its meeting in Strasbourg in December last, the European Council decided that the Community and its member States would maintain the pressure that they exert on the South African authorities in order to promote the profound and irreversible changes which they have repeatedly stood for. The European Council affirms its willingness to consider a gradual relaxation of this pressure when there is further clear evidence that the process of change already initiated continues in the direction called for at Strasbourg.

LIBYAN ARAB JAMAHIRIYA

[Original: Arabic]

1. Believing that men were created equal, as affirmed by all the revealed religions, including Islam, the Great Socialist People's Libyan Arab Jamahiriya has taken a firm stand against the policy of *apartheid* and racial discrimination among the peoples of the world and considers this policy to be an abominable crime against humanity that is not subject to reform but must be extirpated and eliminated.

2. Proceeding from this position, the Great Jamahiriya gives comprehensive and continuous support to the African people in South Africa and the Palestinian Arab people in occupied Palestine in their struggle to escape from the policy of *apartheid* and racial discrimination imposed on them by racist régimes and to attain their right to live under a democratic régime that would enable these two militant peoples to exercise freedom of choice with regard to their political and economic systems.

3. Libyan legislation prohibits any form of *apartheid* or racial discrimination and, on 12 June 1988, issued the Great Green Document on Human Rights in the Age of the Masses, which rejects discrimination among men on the basis of colour, sex, religion or culture.

4. The Great Jamahiriya discharges in full the obligations laid down by the Charter of the United Nations, the Universal Declaration of Human Rights and the resolutions of international organizations providing for a boycott of racist

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régimes. Consequently, it does not maintain any political, cultural, sports or other contacts with these racist régimes and constantly calls upon the international community to impose a comprehensive boycott against them and to cease dealing with them.

5. The Jamahiriya maintains good relations with the African States that are neighbours of South Africa, gives material and political support to these States and stands with them in resistance to the repeated attacks by this racist régime, which are aimed at undermining the independence of these States.

6. The Great Jamahiriya gives moral and material support to the liberation movements in South Africa (the African National Congress of South Africa and the Pan Africanist Congress of Azania) in the struggle to put an end to the repugnant policy applied by the racist Government of South Africa against the African people in South Africa.

7. As a tribute to the struggle of this people and its leaders, a great international celebration was held on 12 June 1989, in the course of which the first Qaddafi International Prize for Human Rights was awarded to the militant Nelson Mandela. The prize was accepted by his daughter on his behalf, as the militant Nelson Mandela was at that time imprisoned in the gaols of the racist Pretoria régime.

8. The Great Jamahiriya has always supported all the resolutions adopted by the United Nations, the Organization of African Unity and other international and regional organizations calling for a boycott of racist régimes, at the political, economic and cultural levels, until these racist régimes comply with the pacts and resolutions of the United Nations and other international organizations and renounce the repugnant racist policy that they apply to the indigenous inhabitants of the areas under their domination.

9. The Great Jamahiriya proclaims the need to implement all the resolutions adopted by the General Assembly, the Security Council, and other international and regional organizations, without any remissness, feebleness or dilatoriness in their implementation, and to take a stand in the face of racist régimes in their endeavours to disavow, circumvent or delay the implementation of these resolutions, dismiss the charges brought, nullify their implementation or countermand them.

MAURITANIA

[Original: French]

1. The Minister for Foreign Affairs and Co-operation of the Islamic Republic of Mauritania presents his compliments to the Secretary-General of the United Nations and, with reference to the above-mentioned notes verbales, has the honour to transmit herewith the reply of the Mauritanian Government.

2. The Islamic Republic of Mauritania has always taken a clear and consistent position on South Africa, its policy and its practices of apartheid.

3. Mauritania has never had relations of any type with South Africa and was quick to make the movement to impose comprehensive and mandatory sanctions against the apartheid régime a major concern in its foreign relations.

4. For its part, Mauritania has never maintained any economic, commercial, financial, cultural, scientific, sports or ties of any other type with South Africa.

5. In addition, Mauritania has always stood by the front-line brother States, just as it has always assisted the liberation movements recognized by OAU.

6. Accordingly, Mauritania has ratified the principal international instruments which deal with racial discrimination and apartheid and, as part of the campaign to sensitize African public opinion to the crime of apartheid, Nouakchott served in 1988 as the venue for the second preparatory meeting for the hearings on apartheid.

7. The Government of the Islamic Republic of Mauritania is convinced of the need for the international community to maintain and step up its pressure on the apartheid régime until that system is eliminated and a democratic and egalitarian régime is established in South Africa.

MEXICO

[Original: Spanish]

1. The Government of Mexico, pursuant to its traditional foreign-policy principles and with a view to ensuring the swift elimination of the apartheid régime in South Africa, has maintained a firm and unequivocal policy against the segregationist and discriminatory régime in South Africa.

2. Mexico believes that the apartheid régime runs contrary to the most fundamental human rights of the majority of the South African people and to the dignity and integrity of the human race. It has therefore not relented for one moment in its efforts to bring about that régime's disappearance.

3. In accordance with its principles and the pertinent resolutions of the United Nations, Mexico has condemned racial discrimination in South Africa and taken all the measures within its power to exert the pressure required for the eradication of apartheid. Thus, Mexico maintains no form of contact with the Government of South Africa. The Government of Mexico has neither diplomatic nor consular relations with that country and has suspended all economic, financial, commercial, sports, cultural and other relations with South Africa. It has also forbidden any form of trade with that country, including the exchange of goods originating in, routed from or bound for South Africa via third countries.

4. Neither does the Government of Mexico permit tourist exchanges with South Africa: it grants visas to South African nationals only in humanitarian cases. Mexico has also strictly observed the provisions relating to the mandatory arms embargo laid down by the Security Council.

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5. Mexico has spared no effort to promote the prompt elimination of the *apartheid* régime in South Africa and believes that a united effort by all members of the international community to adopt similar measures is urgently required. This effort is vital in order to ensure the most elementary respect for the human rights and fundamental freedoms of the South African people. Furthermore, the very existence of the *apartheid* régime has recently proved to be a source of international tension and a cause of conflicts in southern Africa. It is therefore also vital for peace and security in the region that *apartheid* should be dismantled immediately.

6. Mexico reiterates once again its commitment to uphold the rights of the majority population of South Africa. Mexico offers the members of that population its unconditional support in the negotiations upon which they have embarked with the South African authorities for the purpose of achieving the total eradication of the segregationist régime.

NORWAY

[Original: English]

1. For many years, the Nordic countries have played a leading role as regards measures designed to increase pressure on South Africa to abolish the *apartheid* system. In 1978 the Nordic foreign ministers adopted the first Nordic Programme of Action against *Apartheid*. The Programme of Action was revised and further expanded in 1985 and 1988.

2. At the national level, the sale or negotiation of the sale of Norwegian petroleum to South Africa was prohibited by law on 20 June 1986. A comprehensive Act relating to an economic boycott of South Africa and Namibia to combat *apartheid* took effect on 20 July 1987. The boycott of Namibia was formally abolished on 30 March 1990.

3. The purpose of the Act is to contribute to the international pressure on South Africa to abolish *apartheid*. According to the Act, it is prohibited *inter alia*:

(a) to engage in commodity trade;

(b) to transport crude oil by a Norwegian-owned ship or a ship that is registered in Norway or is under Norwegian management;

(c) to carry passengers or goods by air;

(d) to perform services;

(e) to grant loans, credits or guarantees, or to enter into insurance contracts;

(f) to make investments;

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(g) to transfer patent or production rights;

(h) to organize or offer tours.

4. One of the primary purposes of the extensive measures instituted by the Norwegian Government has been to take part in a broader international boycott of South Africa to combat *apartheid*. The Norwegian Government is making an active effort, nationally, at the Nordic level, and internationally - not least through the United Nations - to help to abolish the *apartheid* system by peaceful means.

5. Norway also provides humanitarian assistance to liberation movements, refugees and other victims of *apartheid*. Norwegian assistance to victims of *apartheid* has increased considerably during the last years, and in 1989 reached approximately $US 28 million.

6. The Norwegian Government considers that there is still a need to uphold international pressure against the South African authorities in order to contribute to the complete dismantling of the system of *apartheid*. For this reason Norway does not regard it opportune to lift Norwegian economic sanctions against South Africa.

7. Important and promising developments have taken place in South Africa over the past months. On 4 May 1990 the South African Government and the ANC agreed on a common commitment towards the resolution of the climate of violence as well as a commitment to stability and a peaceful process of negotiations. The Norwegian Government welcomes this and other developments that have occurred since the election of F. W. de Klerk to the presidency.

8. The latest developments in South Africa have warranted a review of the Nordic Programme of Action against *Apartheid* which will be carried out by the Nordic Working Group on measures against South Africa. At their meeting in Turku, Finland, on 6 and 7 March 1990, the Nordic Foreign Ministers adopted certain modifications in the joint guidelines concerning the administration of obligatory visas for South African citizens with the objective of widening possibilities for contacts that could contribute to further dialogue and democratization in South Africa.

SWEDEN

[Original: English]

1. The objective of Sweden's South Africa policy is to contribute to the elimination of *apartheid* by peaceful means and its replacement by a democratic, non-racial society with universal suffrage for all South Africans. Together with the other Nordic countries, Sweden has outlined the actions it is taking in this regard in the Nordic Programme of Action against *Apartheid* (A/43/284-S/19737), which was first adopted in 1978 and subsequently revised and extended in 1985 and 1988. In accordance with a decision by the Nordic Ministers for Foreign Affairs at

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their meeting in Turku, Finland, on 6 and 7 March 1990, that Programme is currently being reviewed in the light of recent developments.

2. Sweden maintains a general trade boycott of South Africa since 1 July 1987. Sweden also applies a number of other economic measures, such as the prohibition of new investments in South Africa.

3. *Apartheid* is still entrenched in South Africa. However, a political process has been set in motion in which the so-called Groote Schuur Minute of 4 May 1990 represents a recent important step forward. It is the hope of the Swedish Government that all obstacles to substantive negotiations will be removed as soon as possible. Sweden does not intend to ease the pressure on South Africa until profound and irreversible change has taken place in that country.

4. In view of recent developments in South Africa, Sweden and the other Nordic countries decided in March 1990 to modify the joint Nordic guidelines for the administration of obligatory visas for citizens of South Africa, the objective being to widen possibilities for such contacts as will be of a positive value to the dialogue and the democratization process in South Africa.

5. Sweden welcomes the independence of Namibia and has lifted the sanctions it previously applied to that country. A Swedish Ambassador has been accredited in Windhoek, and Sweden is looking forward to close co-operation with Namibia. Sweden hopes that Namibia's independence will contribute to a democratic and peaceful development in South Africa.

6. More than half of Sweden's bilateral development assistance, or the equivalent of $US 500 million, is destined to countries in southern Africa. Considerable support is extended to SADCC. Victims and opponents of *apartheid* receive sizeable humanitarian assistance. The Swedish Government intends to maintain and extend these aid programmes. In particular, Sweden plans to increase its assistance to the democratization process in South Africa.

7. Sweden attaches particular importance to assistance to Mozambique and Angola in view of the immense suffering caused by many years of South African destabilization and other outside interference in those countries.

8. To sum up, Sweden welcomes the important steps taken in recent months towards a negotiated settlement in South Africa. However, the pillars of *apartheid* have not yet been removed. In Sweden's view, international pressure on the South African Government should be kept up until profound and irreversible change has taken place. Sweden wishes to contribute by appropriate measures, together with the other Nordic countries, to a peaceful process in South Africa which will lead to the abolition of *apartheid* and the establishment of a non-racial and democratic society.

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]

1. The Soviet Union condemns the policy of *apartheid* as the most odious form of racial oppression, incompatible with general ethics, with the purposes and principles of the United Nations Charter and with the Universal Declaration of Human Rights. The task of eliminating *apartheid* requires the united efforts of all countries of the international community. To that end, it is of course necessary to take into account the wealth of positive experience gained in resolving complex conflict situations and the aspiration of peoples to put an end to manifestations of racial hatred and of the forcible suppression of the rights and freedoms of people whose skin is a different colour. In this case, as for the settlement of other conflicts, the Soviet Union advocates a wide variety of approaches and multilateral and bilateral contacts which might make a real contribution to the elimination of the *apartheid* system.

2. We believe that the potential of the United Nations offers special possibilities in this area. The resolutions on the question of *apartheid* adopted over the years by the General Assembly and the Security Council are a major tool for influencing the *apartheid* régime and an important expression of moral and political support for the national liberation movements of southern Africa. The Soviet Union supported the resolutions adopted at the forty-fourth session of the General Assembly, as it does all other United Nations resolutions on this question, and applies their provisions strictly. It has no diplomatic relations with the Government of South Africa and adheres to existing sanctions against South Africa imposed by the United Nations.

3. The adoption of the Declaration on *Apartheid* and its Destructive Consequences in Southern Africa, by consensus at the sixteenth special session of the General Assembly, represents the preparation of a common platform and the adoption of a common approach by the international community to the problem of dismantling *apartheid* and adds a new dimension to the United Nations role in the settlement of regional conflicts. The Declaration on *Apartheid* is forward-looking and offers a solid programme of action, the implementation of which will permit the complete eradication of *apartheid* from South Africa. It is important that all States base their practical policies towards South Africa on this document.

4. The processes currently under way in South Africa strengthen hopes that *apartheid* can be eradicated through dialogue, with each side respecting the other's rights and the rights of every citizen of South Africa. The Soviet Union advocates the complete dismantling of the *apartheid* system, also peaceful change and the creation of a democratic, non-racial State in South Africa. It therefore views the Cape Town meeting between delegations of the African National Congress and the South African Government as a significant event and as the real beginning of a dialogue on the elimination of *apartheid*.

5. The Soviet Union considers it important at this stage that the United Nations and the entire international community continue and intensify efforts to ensure that the positive processes making headway in South Africa prove irreversible and

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lead ultimately to the full and final eradication of apartheid. The Soviet Union, for its part, is ready to do everything in its power to help achieve that goal.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]

1. The United Kingdom is pleased to have been able to participate in the consensus that adopted the Declaration on Apartheid and its Destructive Consequences in Southern Africa at the sixteenth special session of the General Assembly. It constitutes a strong and unanimous signal from the international community of the need for apartheid to be abolished. Rightly, it does not lay down prescriptions for the South African people: it is their prerogative to work out a solution to South Africa's problems which best suits their needs and aspirations.

2. Since the adoption of the Declaration last December the United Kingdom has continued to use its influence in South Africa to help bring about the end of apartheid. The United Kingdom has long believed that it is only through negotiations that this can be achieved peacefully and the transition to a non-racial democratic South Africa successfully assured. In the United Kingdom's view the "possible negotiating concept" developed by the Commonwealth Eminent Persons Group, which called for matching and reciprocal commitments by both sides in the context of a suspension of violence, represented in one form the most feasible basis on which to get such negotiations under way. The United Kingdom is pleased to note that the Declaration adopted at the sixteenth special session is consistent with this concept.

3. The United Kingdom welcomes the significant progress made towards the start of these negotiations since last December. The situation in South Africa has been radically transformed. The courageous steps which President de Klerk has taken, including the release of Mr. Nelson Mandela and other political prisoners, the lifting of the bans on political organizations, and the ending of the state of emergency (except in Natal) have fulfilled many of the conditions believed necessary to open the way to dialogue. The United Kingdom warmly welcomes the talks which have taken place between the South African Government and the ANC and notes, in particular, their important joint commitment to stability and a peaceful process of negotiations.

4. The United Kingdom has urged all parties to abandon violence and the rhetoric of violence. The United Kingdom hopes that agreement may soon be reached on those remaining issues which need to be resolved and that substantive negotiations on a new constitution for South Africa will begin without delay.

5. The United Kingdom believes that the process now launched in South Africa is irreversible in itself and will lead to the "profound and irreversible changes" called for in the declaration. In recognition of the progress made, the United Kingdom lifted its ban on new investment in South Africa and on the promotion of tourism to South Africa on 23 February. Both measures were voluntary in application and it remains for individuals and companies to decide whether to

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invest in, or visit South Africa. In common with other member States of the European Community, the United Kingdom will no longer discourage cultural, scientific or academic contacts, which may themselves lead to dialogue and the abolition of *apartheid*.

6. The United Kingdom has continued to use its high level contacts with the South African Government (the Secretary of State for Foreign and Commonwealth Affairs visited South Africa in March, and President de Klerk visited London in May) to encourage negotiation about constitutional change in South Africa. The United Kingdom is expanding its programme of aid to the black communities in South Africa both as a signal of support and to give them practical help to prepare them to take their rightful role in a post-*apartheid* South Africa. The programme is now running at over pounds sterling 7 million per annum. In addition, we contribute some pounds sterling 4 million to the EC Positive Measures Programme.

7. The United Kingdom believes that the task of the international community is now to encourage the moves towards negotiations in South Africa and to consider what can be done to smooth the transition to a prosperous, democratic and non-racial South Africa.

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UNITED REPUBLIC OF TANZANIA

[Original: English]

1. Tanzania effectively cut off all links with racist South Africa on the day she gained her independence in 1961. (Please refer to the Prohibited Exports (Tanganyika) Order, 1963; CAP 27 East African Customs and Transfer Tax Management Act; and Act No. 19 of 1977, attached.)

2. She has continued to abide by all United Nations resolutions calling for sanctions, mandatory and voluntary, on South Africa.

3. Tanzania has rendered unflinching support to all opponents of *apartheid* and has campaigned unremittingly through various international forums not only for the maintenance of all existing sanctions, but also for the imposition of comprehensive mandatory sanctions under Chapter 7 of the United Nations Charter in order to ensure a speedy end to *apartheid*.

4. Resolution 44/27/E: No Tanzanian bank has any connection whatsoever with the banking system of racist South Africa. The question therefore of Tanzania passing credits to the private or public sector of that country does not arise.

5. Resolution 44/27/K: Tanzania has continued to apply mandatory sanctions against the Pretoria régime, and has put into place other measures aimed at bringing *apartheid* to an end. Tanzania has no investments in South Africa, no trade of any kind with that régime, including the sale of kruggerand, and no military co-operation whatsoever with the racist régime, and does not export goods or services to that country.

6. Resolution 44/27/D: Tanzania is a member of the Intergovernmental Group to Monitor the Supply of Oil and Petroleum Products to South Africa. In that capacity, she has continued to play her part in the effort of ensuring that those who violate the ban on oil and oil products to South Africa are exposed.

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ATTACHMENT

A. LEGAL NOTICE NO. 51

THE EAST AFRICAN CUSTOMS MANAGEMENT ACT, 1952
(No. 12 of 1952)

IN EXERCISE of the powers conferred upon him by subsection (2) of section 16 of the East African Customs Management Act, 1952, the President of the Republic of Tanganyika hereby makes the following Order:

THE PROHIBITED IMPORTS (TANGANYIKA) ORDER, 1963

1. This Order may be cited as the Prohibited Imports (Tanganyika) Order, 1963, and shall come into operation on the 1st day of October, 1963.

2. The direct or indirect importation into Tanganyika of any goods from the Republic of South Africa is absolutely prohibited.

By Command of the President.

C. G. KAHAMA,
Minister for Commerce and Industry

Dar es Salaam,
25th September, 1963.

B. LEGAL NOTICE NO. 52

THE EAST AFRICAN CUSTOMS MANAGEMENT ACT, 1952
(No. 12 of 1952)

IN EXERCISE of the powers conferred upon him by subsection (2) of section 62 of the East African Customs Management Act, 1952, the President of the Republic of Tanganyika hereby makes the following Order:

THE PROHIBITED EXPORTS (TANGANYIKA) ORDER, 1963

1. This Order may be cited as the Prohibited Exports (Tanganyika) Order, 1963, and shall come into operation on the 1st day of October, 1963.

2. The exportation from Tanganyika of any goods to, or any goods ultimately destined for, the Republic of South Africa is absolutely prohibited.

By Command of the President.

C. G. KAHAMA,
Minister for Commerce and Industry

Dar es Salaam
25th September, 1963.

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C. CAP 27 EAST AFRICAN CUSTOMS AND TRANSFER TAX MANAGEMENT ACT

S.146 (a) Any person who imports or carries coastwise -

(i) Any prohibited goods whether or not such goods are unloaded; or

(ii) Any restricted goods contrary to any condition regulating the importation or carriage coastwise of such goods whether or not such goods are unloaded.

Shall be guilty of an offence and liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding ten thousand shillings or to both such imprisonment and such fine.

D. ACT NO. 19 OF 1977

In this Act "The Management Act" means the East Africa Customs and Transfer Tax Management Act.

S.4 - Until such time as the Parliament makes provision imposing or relating to the collection of customs and excise duties the Customs Management Act and Excise Management Act shall continue to apply and have effect within the United Republic of Tanzania.

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UNITED STATES OF AMERICA

[Original: English]

The United States Government applauds the courageous decision by the South African Government and the ANC to enter into face-to-face talks aimed at clearing the way for negotiations. We also applaud the recent reform measures undertaken by President de Klerk.

United States policy is to support a broadly-inclusive negotiating process in South Africa, and to encourage all leaders prepared to pursue a peaceful transition to non-racial democracy. We support the achievement of a non-racial, democratic society based upon universal sufferage in a united South Africa.

The United States does not give direct assistance to any political party or group in South Africa. United States assistance of over $30 million a year assists disadvantaged South Africans to prepare themselves for leadership in a post-*apartheid* non-racial democracy with a free-market based economy. As outlined in the Comprehensive Anti-*Apartheid* Act, our program focuses on education, community development and self-help, human rights, labor union training, and black private enterprise.

The United States Government, as of 30 June 1990, has not relaxed existing measures aimed at encouraging the South African Government to enter negotiations.

ANNEX III

Letter dated 7 December 1989 from the Minister for Foreign Affairs of South Africa to the Secretary-General

As you know, the United Nations General Assembly is about to hold a special session on "apartheid" in New York (12 to 14 December) and is to consider a "Declaration on apartheid and its destructive consequences in southern Africa". A draft of the proposed declaration has been circulating at the United Nations and support for its adoption is currently being canvassed among regional groups and others.

Negotiating constitutional, economic and social changes in any sovereign State is the inalienable right of the citizens of that State. Attempts by other governments, however well-meaning, or international organizations to usurp this responsibility should be rejected. The Charter of the United Nations specifically prohibits the General Assembly from adopting a document such as the draft declaration on apartheid, which is unarguably a blatant intervention in the domestic affairs of a Member State.

The United Nations General Assembly can no longer ignore the dramatic steps taken by the South African Government recently to improve the climate for negotiations on a new constitution for South Africa. It is generally acknowledged virtually throughout the world that the South African Government has introduced and announced constructive steps in removing obstacles to negotiation.

In three brief months the Government has taken a number of substantive steps which underline the sincerity of its purpose, releasing long-term security prisoners, permitting peaceful mass demonstrations, committing itself to the opening of public amenities and central business districts to all races etc. The State President has personally practised an open-door policy and has met opposition personalities across a wide spectrum.

South Africa's positive contribution towards the independence process in Namibia is generally acknowledged. So is South Africa's positive role in supporting African efforts to bring internal conflicts in Angola and Mozambique to an end. The South African Government fully realizes the urgency of getting credible negotiations off the ground and trusts that it will soon be in a position to make further announcements in order to clear the way for negotiations by recognized leaders.

The South African Government is irrevocably committed to the creation of a new South Africa based on a free and equitable constitutional, social and economic system.

In the political field the aim is the creation of a free and democratic political system in which, *inter alia*:

- All people shall be free in their country of birth and shall be equal and have equal rights regardless of colour, race, sex and creed;

- No individual or group of individuals will have any right to govern others without their consent;

- Adequate protection shall be given to the rights of individuals and minorities, regardless of colour, race, sex or creed;

- All people shall be equal before the law;

- Freedom of speech, within the generally recognized bounds of responsibility, shall be the right of all people.

In the social field the aim is the creation of a free and equitable social system in South Africa in which, inter alia:

- Freedom of religion will be guaranteed for all;

- Each individual shall be regarded as a unique creature of God entitled to equal protection of his human dignity;

- All discrimination between groups of people or between individuals shall be eliminated. (In other words apartheid is no longer the South African Government's policy);

- Freedom of movement, of association and of disassociation shall be guaranteed to all;

- All people shall have the right to work, and all discrimination in the work place shall be eliminated;

- Housing for all shall be a high priority.

In the economic field the aim is to ensure equal access to opportunities within the framework of a free enterprise economic system in which, inter alia:

- All people shall be free to utilize their skills to their best advantage;

- Private ownership is fostered and property rights guaranteed for all;

- As is already the case, the resources of the State will continue to be utilized to create an environment within which all individuals can develop their skills to the best of their abilities and within which the economy can prosper and the benefits of growth can be passed on to all individuals as effectively as possible;

- Special attention is given to the development of disadvantaged individuals and communities.

The adoption at the special session of the proposed declaration will make the pursuit of these policies within South Africa much more difficult. The people of South Africa fail to understand the international community's response to what this Government has already achieved. South Africa will have no option but to reject the declaration if adopted.

The adoption of this declaration would have an extremely negative effect on the initiation of negotiations between the relevant parties in South Africa. It would, further, complicate the future conduct of such negotiations.

The declaration is an attempt to incorporate as much as possible of the Harare Declaration of 21 August 1989, which endorsed the position of only one of the parties likely to participate in future negotiations, the African National Congress, thus putting it in a preferential position. The ANC can qualify itself for participation by committing itself to the peaceful resolution of differences. Such a commitment will match the South African Government's commitment to a new political constitutional dispensation which will meet the political aspirations of all South Africans, to be arrived at by peaceful means.

The negotiating positions of the various parties will need to be accorded equal consideration. For the United Nations to take cognizance of but one is a recipe for failure.

The proposed declaration seeks to establish a rigid framework which would undermine the flexibility required for genuine negotiations. The declaration seeks to entrench in advance principles which are the essence of what the future negotiations will be about, pre-empting the prerogative of the negotiators.

By suggesting a continuing role for the United Nations and also for the international community and promoting the concept of an interim government, the proposed declaration overlooks the fact that South Africa is a sovereign State and it is South Africans themselves who will have to solve current problems and chart their future.

If the international community wishes to encourage the people of South Africa to proceed on their declared course of creating a new South Africa through negotiations, the way to go about it is hardly to promote the continuation and extension of sanctions, as the draft declaration does. Sanctions harm the economies of all the countries of southern Africa. The prime motivator of the new South African Government's approach to the southern African region is economic progress and stability. The Government believes that peaceful coexistence and maximum co-operation in all fields is essential for the benefit of all the countries of southern Africa. There is no logic or advantage in confrontation.

While, on the one hand, the South African Government is laying the ground-work for a new order at home, on the other it is concerned about the economic progress and stability of the southern African region and the welfare of the rest of the continent. The countries of southern Africa indeed have opportunities for economic progress unique in Africa. Through trade, transport, investment, labour, migration, tourism and technology transfers they interact closely and beneficially with the strongest and most diversified economy south of the Sahara. Commercial exchanges between countries stimulate development more effectively than handouts.

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Western nations interested in the development of the region should support mutually profitable links between the countries of southern Africa, rather than actively discouraging them such as by debating the adoption of the proposed declaration on apartheid.

What is urgently needed for the very survival of the sub-continent is a programme to improve political and economic conditions through regional co-operation. The world community should:

- Acknowledge that South Africa has an essential contribution to make if efforts to uplift countries in the region economically are to have a chance of succeeding;
- Pursue policies supportive of - rather than impeding - South African efforts to evolve a domestic social and political order broadly acceptable to all South Africans;
- Grant and/or mobilize funds and expertise for extending and modernizing the physical infrastructures of the region;
- Provide assistance for measures aimed at raising human productivity through education and training as well as public health and family planning programmes and housing;
- Urge and assist southern African Governments to create economic and legal conditions conducive to attracting local and foreign private investments in processing, manufacturing and other productive ventures.

South Africa is already contributing towards the development of southern Africa, notably in the fields of agriculture, mining, building and construction, including roads and dams, human health, education and training, diverse technical fields such as transport, telecommunications, the use of fissionable materials, environmental protection and trade and investment. Significant co-operation projects are the Highlands Water Scheme in Lesotho, the Soda Ash Project in Botswana and the Cahora Bassa hydroelectric project in Mozambique.

Given the broad spectrum of Africa-related technological know-how available in South Africa, common sense suggests that outside governments and development agencies seeking to promote the material welfare of the peoples of southern Africa should make maximum use of this locally available expertise. It would be wasteful and counterproductive to ignore the availability of such expertise. The South African Government places its resources and know-how at the disposal of the continent.

South Africans are still divided as to the best ways in which our aspirations and ideals are to be realized, but are united in their love for their country and in their resolve to come peacefully to an agreement on a new constitution. The South African Government is determined to apply all its energy to overcome the differences and to find a peaceful way in which a better future can be created for South Africa, all its peoples, and the generations to come.

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The special session offers the United Nations the opportunity to acknowledge and promote the emerging new realism that is developing in southern Africa as around the world. Since the season of white domination in South Africa is over, is it too much to hope that the season for empty declarations and hollow resolutions in the General Assembly has also come to an end?

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ANNEX IV

Excerpts from the address by President F. W. de Klerk at the opening of the second session of the ninth Parliament of the Republic of South Africa on 2 February 1990

The general election of 6 September 1989 placed our country irrevocably on the road of drastic change. Underlying this is the growing realization by an increasing number of South Africans that only a negotiated understanding among the representative leaders of the entire population is able to ensure lasting peace.

The alternative is growing violence, tension and conflict. That is unacceptable and in nobody's interest. The well-being of all in this country is linked inextricably to the ability of the leaders to come to terms with one another on a new dispensation. No one can escape this simple truth.

On its part, the Government will accord the process of negotiation the highest priority. The aim is a totally new and just constitutional dispensation in which every inhabitant will enjoy equal rights, treatment and opportunity in every sphere of endeavour - constitutional, social and economic.

I hope that this new Parliament will play a constructive part in both the prelude to negotiations and the negotiating process itself. I wish to ask all of you who identify yourselves with the broad aim of a new South Africa, and that is the overwhelming majority:

- Let us put petty politics aside when we discuss the future during this session;
- Help us build a broad consensus about the fundamentals of a new, realistic and democratic dispensation;
- Let us work together on a plan that will rid our country of suspicion and steer it away from domination and radicalism of any kind.

During the term of this new Parliament, we shall have to deal, complementary to one another, with the normal processes of legislation and day-to-day government, as well as with the process of negotiation and renewal.

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Human rights

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The Government accepts the principle of recognition and protection of the fundamental individual rights which form the constitutional basis of most Western democracies. We acknowledge, too, that the most practical way of protecting those

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rights is vested in a declaration of rights justifiable by an independent judiciary. However, it is clear that a system for the protection of the rights of individuals, minorities and national entities has to form a well-rounded and balanced whole. South Africa has its own national composition and our constitutional dispensation has to take this into account. The formal recognition of individual rights does not mean that the problems of a heterogeneous population will simply disappear. Any new constitution which disregards this reality will be inappropriate and even harmful.

Naturally, the protection of collective, minority and national rights may not bring about an imbalance in respect of individual rights. It is neither the Government's policy nor its intention that any group - in whichever way it may be defined - shall be favoured above or in relation to any of the others.

The Government is requesting the [South African] Law Commission to undertake a further task and report on it. This task is directed at the balanced protection in a future constitution of the human rights of all our citizens, as well as of collective units, associations, minorities and nations. This investigation will also serve the purpose of supporting negotiations towards a new constitution.

The terms of reference also include:

- The identification of the main types and models of democratic constitutions which deserve consideration in the aforementioned context;
- An analysis of the ways in which the relevant rights are protected in every model; and
- Possible methods by means of which such constitution may be made to succeed and be safeguarded in a legitimate manner.

The death penalty

The death penalty has been the subject of intensive discussion in recent months. However, the Government has been giving its attention to this extremely sensitive issue for some time. On 27 April 1989, the honourable Minister of Justice indicated that there was merit in suggestions for reform in this area. Since 1988 in fact, my predecessor and I have been taking decisions on reprieves which have led, in proportion, to a drastic decline in executions.

We have now reached the position in which we are able to make concrete proposals for reform. After the Chief Justice was consulted, and he in turn had consulted the Bench, and after the Government had noted the opinions of academics and other interested parties, the Government decided on the following broad principles from a variety of available options:

- That reform in this area is indicated;

- That the death penalty should be limited as an option of sentence to extreme cases, and specifically through broadening judicial discretion in the imposition of sentence; and
- That an automatic right of appeal be granted to those under sentence of death.

Should these proposals be adopted, they should have a significant influence on the imposition of death sentences on the one hand and, on the other, should ensure that every case in which a person has been sentenced to death, will come to the attention of the Appellate Division.

These proposals require that everybody currently awaiting execution be accorded the benefit of the proposed new approach. Therefore, all executions have been suspended and no executions will take place until Parliament has taken a final decison on the new proposals. In the event of the proposals being adopted, the case of every person involved will be dealt with in accordance with the new guidelines. In the meantime, no executions have taken place since 14 November 1989.

New and uncompleted cases will still be adjudicated in terms of the existing law. Only when the death sentence is imposed, will the new proposals be applied, as in the case of those currently awaiting execution.

The legislation concerned also entails other related principles which will be announced and elucidated in due course by the Minister of Justice. It will now be formulated in consultation with experts and submitted to Parliament as soon as possible.

I wish to urge everybody to join us in dealing with this highly sensitive issue in a responsible manner.

Negotiation

I wish to focus the spotlight on the process of negotiation and related issues. At this stage I am refraining deliberately from discussing the merits of numerous political questions which undoubtedly will be debated during the next few weeks. The focus, now, has to fall on negotiation.

Practically every leader agrees that negotiation is the key to reconciliation, peace and a new and just dispensation. However, numerous excuses for refusing to take part, are advanced. Some of the reasons being advanced are valid. Others are merely part of a political chess game. And while the game of chess proceeds, valuable time is being lost.

Against this background, I committed the Government during my inauguration to giving active attention to the most important obstacles in the way of negotiation. Today I am able to announce far-reaching decisions in this connection.

I believe that these decisions will shape a new phase in which there will be a movement away from measures which have been seized upon as a justification for confrontation and violence. The emphasis has to move, and will move now, to a debate and discussion of political and economic points of view as part of the process of negotiation.

I wish to urge every political and community leader, in and outside Parliament, to approach the new opportunities which are being created, constructively. There is no time left for advancing all manner of new conditions that will delay the negotiating process.

The steps that have been decided are the following:

- The prohibition of the African National Congress of South Africa (ANC), the Pan Africanist Congress of Azania (PAC), the South African Communist Party and a number of subsidiary organizations is being rescinded;

- People serving prison sentences merely because they were members of one of these organizations or because they committed another offence which was merely an offence because the prohibition on one of the organizations was in force, will be identified and released. Prisoners who have been sentenced for other offences such as murder, terrorism or arson are not affected by this;

- The media emergency regulations as well as the education emergency regulations are being abolished in their entirety;

- The security emergency regulations will be amended to make provisions for effective control over visual material pertaining to scenes of unrest;

- The restrictions in terms of the emergency regulations on 33 organizations are being rescinded. The organizations include the following:

  National Education Crisis Committee (NECC)

  South African National Students Congress

  United Democratic Front (UDF)

  Congress of South African Trade Unions (COSATU)

  Die Blanke Bevrydingsbeweging van Suid-Afrika;

- The conditions imposed in terms of the security emergency regulations on 374 people on their release, are being rescinded and the regulations which provide for such conditions are being abolished;

- The period of detention in terms of the security emergency regulations will be limited henceforth to six months. Detainees also acquire the right to legal representation and a medical practitioner of their own choosing.

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These decisions by the Cabinet are in accordance with the Government's declared intention to normalize the political process in South Africa without jeopardizing the maintenance of the good order. They were preceded by thorough and unanimous advice by a group of officials which included members of the security community.

Implementation will be immediate and, where necessary, notices will appear in the Government Gazette from tomorrow.

...

At the same time I wish to emphasize that the maintenance of law and order dare not be jeopardized. The Government will not forsake its duty in this connection. Violence from whichever source will be fought with all available might. Peaceful protest may not become the springboard for lawlessness, violence and intimidation. No democratic country can tolerate that.

...

On the state of emergency, I have been advised that an emergency situation, which justifies these special measures which have been retained, still exists. There is still conflict which is manifesting itself mainly in Natal, but as a consequence of the country-wide political power-struggle. In addition, there are indications that radicals are still trying to disrupt the possibilities of negotiation by means of mass violence.

It is my intention to terminate the state of emergency completely as soon as circumstances justify it and I request the co-operation of everybody towards this end. Those responsible for unrest and conflict have to bear the blame for the continuing state of emergency. In the meantime, the state of emergency is inhibiting only those who use chaos and disorder as political instruments. Otherwise, the rules of the game under the state of emergency are the same for everybody.

Against this background, the Government is convinced that the decisions I have announced are justified from the security point of view. However, these decisions are justified from a political point of view as well.

Our country and all its people have been embroiled in conflict, tension and violent struggle for decades. It is time for us to break out of the cycle of violence and break through to peace and reconciliation. The silent majority is yearning for this. The youth deserve it.

With the steps the Government has taken, it has proved its good faith and the table is laid for sensible leaders to begin talking about a new dispensation, to reach an understanding by way of dialogue and discussion.

The agenda is open and the overall aims to which we are aspiring should be acceptable to all reasonable South Africans.

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Among other things, those aims include a new, democratic constitution; universal franchise; no domination; equality before an independent judiciary; the protection of minorities as well as of individual rights; freedom of religion; a sound economy based on proven economic principles and private enterprise; and dynamic programmes directed at better education, health services, housing and social conditions for all.

In this connection, Mr. Nelson Mandela could play an important part. The Government has noted that he has declared himself to be willing to make a constructive contribution to the peaceful political process in South Africa.

I wish to put it plainly that the Government has taken a firm decision to release Mr. Mandela unconditionally. I am serious about bringing this matter to finality without delay. The Government will take a decision soon on the date of his release. Unfortunately, a further short passage of time is unavoidable.

Normally, there is a certain passage of time between the decision to release and the actual release because of logistical and administrative requirements. In the case of Mr. Mandela, there are factors in the way of his immediate release, of which his personal circumstances and safety are not the least. He has not been an ordinary prisoner for quite some time. Because of that, his case requires particular circumspection.

Today's announcement, in particular, goes to the heart of what black leaders - also Mr. Mandela - have been advancing over the years as their reason for having resorted to violence. The allegation has been that the Government did not wish to talk to them and they were deprived of their right to normal political activity by the prohibition of their organizations.

Without conceding that violence has ever been justified, I wish to say today to those who argued in this manner:

- The Government wishes to talk to all leaders who seek peace;
- The unconditional lifting of the prohibition on the said organizations places everybody in a position to pursue politics freely;
- The justification for violence which was always advanced, no longer exists.

These facts place everybody in South Africa before a fait accompli. On the basis of numerous previous statements, there is no longer any reasonable excuse for the continuation of violence. The time for talking has arrived and whoever will make excuses does not really wish to talk.

Therefore, I repeat my invitation with greater conviction than ever: walk through the open door, take your place at the negotiating table together with the Government and other leaders who have important power bases inside and outside of Parliament.

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Henceforth, everybody's political points of view will be tested against their realism, their workability and their fairness. The time for negotiation has arrived.

...

Conclusion

In my inaugural address I said the following:

> "All reasonable people in this country - by far the majority - anxiously await a message of hope. It is our responsibility as leaders in all spheres to provide that message realistically with courage and conviction. If we fail in that, the ensuing chaos, the demise of stability and progress, will for ever be held against us.
>
> "History has thrust upon the leadership of this country the tremendous responsibility to turn our country away from its present direction of conflict and confrontation. Only we, the leaders of our peoples, can do it.
>
> "The eyes of responsible Governments across the world are focused on us. The hopes of millions of South Africans are centred around us. The future of southern Africa depends on us. We dare not falter or fail."

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ANNEX V

Letter dated 7 June 1990 from the Minister for Foreign Affairs of South Africa addressed to the Secretary-General

On the eve of Mr. Abdulrahim Farah's visit to South Africa, I wish to reaffirm my Government's position on the General Assembly's Declaration on Apartheid of 14 December 1989 so that there is no misunderstanding as to my Government's unequivocal rejection in principle of interference in South Africa's internal affairs. I enclose a copy of a media statement issued by me on 4 June 1990, on the forthcoming visit of Mr. Farah to South Africa (appendix I).

As set out in my letter to you of 7 December 1989 and repeated to you at our meeting at Windhoek on 20 March 1990, it is the inalienable and sole right of the citizens of South Africa to negotiate a new constitution for South Africa. The South African Government will under no circumstances agree to any attempt on the part of outside agencies to usurp this responsibility. In the light of the latest developments in South Africa, the General Assembly would be better advised to terminate its irregular interference in South African affairs. It is generally acknowledged world-wide that the process of reform initiated by President F. W. de Klerk cannot be reversed. This is the new reality in South Africa. It requires a fundamental re-evaluation by African and other Governments of their position towards this new reality. There is no need to monitor an irreversible process. What is required is encouragement - not interference.

Further evidence of the irreversibility of this process was today supplied by President de Klerk in his address to Parliament. I enclose excerpts from his statement (appendix II). Further interference by the General Assembly in the events in South Africa can only be counterproductive. It would be most unhelpful given our strenuous efforts to get negotiations under way. South Africa is a sovereign State and it is for South Africans to decide their own future.

There are pressing problems on the African continent urgently in need of attention. Africa is sliding into an economic abyss. Unless this process is stopped the peoples of the African continent will soon be faced with the frightening reality of permanent and irreversible poverty and degradation. My African colleagues may not agree with me, but in all seriousness I predict today that the point of no return in the process of economic retrogression for most African States will soon be reached unless bold and incisive initiatives are taken by their Governments. The time to do so is now. President de Klerk has done it in South Africa. I sincerely invite my African colleagues to persuade their leaders to follow his example. I advise them as a fellow African, take heed of the events in Central and Eastern Europe. Take heed of the new movement in Western Europe to create both economic and political unity. Then let us ask ourselves, we Africans, where are all those events going to leave us? Do we have a plan? How do we see our future? These are the matters with which we ought to concern ourselves. Continually sniping at South Africa will not save us. Apartheid is going in any event. We are preparing for a future without apartheid. I am asking my African colleagues: are you preparing yourselves for a future without apartheid?

(Signed) R. F. BOTHA

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APPENDIX I

Statement made at Cape Town on 4 June 1990 by the Minister of Foreign Affairs of South Africa

During the meeting at Windhoek on 20 March 1990 between the State President and the Secretary-General of the United Nations, the Secretary-General expressed an interest in the political developments in South Africa. It was agreed that a representative of the Secretary-General could visit South Africa to acquaint himself first-hand with the latest developments in the same way and on the same basis as previous missions from other international organizations that had visited South Africa during recent years.

It was also made clear that such a visit is construed by the South African Government as a genuine desire on the part of the Secretary-General to obtain correct information on the internal situation of South Africa and not as an indication that the South African Government acquiesces in the uncalled-for interference by the General Assembly in the internal affairs of South Africa.

The Minister of Foreign Affairs in a letter dated 7 December 1989 set out the South African Government's attitude to the draft resolution before the United Nations General Assembly. The South African Government made it clear that it rejected the General Assembly's action. This remains the attitude of the South African Government. However, the South African Government has no objection to correct information on South Africa being made available to the Secretary-General on condition that the Secretary-General clearly understands that this is not to be construed as co-operation in the implementation of a General Assembly resolution that the South African Government rejects as *ultra vires* the Charter of the United Nations.

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APPENDIX II

Excerpts from a statement made at Cape Town on 7 June 1990 by the President of South Africa to a joint session of Parliament

Among the main objectives of the Government in respect of which we obtained a mandate have been the normalization of the political process inside South Africa and the normalization of international relations.

As far as our international relations are concerned, there can be little doubt after my recent visit to Europe that we have made substantial progress.

The prospect of once again playing a full and unrestricted role in the international community holds out the promise of immense economic and cultural benefits for our country and all its people.

We cannot live in isolation from the rest of the world. We need foreign trade and investment. We need technological, cultural and sporting interaction with other countries. We have a right to make our voice heard in the councils of the nations.

We cannot stop the world and get off as some people in South Africa would like us to do nor can we turn the clock back and take refuge in the past. Whether we like it or not, we must wrestle also with the international realities of the present and secure for our country its rightful place in the community of nations.

This the Government will continue to bring about.

Even more important, obviously, is the need to bring peace and stability to our country. This can only be done through a peaceful political process of negotiation, preceded by normalization of the political process.

Here, also, we have made dramatic progress in the past nine months.

> The fact is that there are today few or no restrictions on political activities in our country. Individuals and political parties can say what they like and write what they like. They can organize as they wish and they can participate in peaceful demonstrations.

> For many of our people this has been a difficult process. Many South Africans preferred the situation when unpleasant political realities could be swept under the carpet. It was much less troubling to pretend that these realities did not exist and to continue to live in comfort and complacency.

However, the normalization of the political process has on balance had a beneficial effect.

> Many organizations, including the ANC, have now been stripped of the mythological status which they previously enjoyed. They now have to defend

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their policies in the open market-place of ideas. They have to endure the glaring light of accountability for their statements and their actions. Media which previously regarded them as sacrosanct are increasingly questioning their politics and their programmes. Foreign audiences which listened sympathetically when they were perceived to be suppressed, question them with increasing scepticism about their programmes and policies, now that they have become participants in the open political arena.

The process of normalization has been traumatic for all of us. But without it we cannot achieve either a negotiated and lasting solution or the normalization of our relations with the rest of the world. Nevertheless, it has been a bewildering, sometimes frightening experience for many. It has been accompanied by dangerously rising expectations and by an increase in violence, particularly in Natal.

During such times it is of crucial importance that the Government should firmly maintain law and order. And this has, since 20 September, also been one of our main objectives.

In my inaugural speech I said that we would continue to deal with unrest, violence and terrorism with a firm hand. On 2 February I said that I wished to emphasize that the maintenance of law and order dare not be jeopardized:

> "The Government will not forsake its duty in this connection. Violence from whichever source, will be fought with all available might. Peaceful protest may not become the springboard for lawlessness, violence and intimidation."

In my speech of 2 April I dealt with the whole question of security in even greater detail. I announced a number of practical steps which the Government would take to strengthen the maintenance of law and order, particularly in Natal. Those steps are, generally speaking, indicating positive results.

Another constant theme has been the Government's attitude towards the state of emergency.

My predecessor frequently stated that it was his objective to lift the state of emergency as soon as circumstances made this possible.

In my inaugural address I said that we would "try to create a climate which will make it possible to lift the state of emergency or, at least, to gradually move away from it".

On 2 February I again said that it was my intention to terminate the state of emergency completely as soon as circumstances justified it and I requested the co-operation of everyone to this end.

Again, on 2 April I repeated this view but added that we were still in a situation which necessitated maintaining the declared state of emergency.

The state of emergency is due to lapse at midnight on 8 June and the time has once again arrived for the Government to give this question its consideration.

After thorough consideration of all the relevant factors, I have decided to announce that there will no longer be a general country-wide state of emergency but that henceforth it will exist in Natal only.

The Government has pursued with all its might and resources the ideal that, as far as security was concerned, there should be a return to normality in which the remaining vestiges of violence could be countered with the ordinary laws of the land. That point has now been reached.

This decision has been based on the following central considerations:

> As far as Natal is concerned, there is still a factual state of emergency which seriously threatens the safety of the public and maintenance of public order and which cannot be countered with the ordinary laws of the land. The increasing phenomenon in Natal of violence among Blacks, which has led to destruction of human life and property and has assumed shocking proportions, as well as the exceptionally high level of intimidation that exists there, must still be countered by the strongest means available. For that reason I have, in consultation with the Government's security advisors and the Cabinet, decided to annouonce the existence of a state of emergency in the province of Natal, including the self-governing territory of KwaZulu.
>
> A proclamation to this effect will appear in the Government Gazette tomorrow, 8 June 1990.

To maintain order and stability in Natal and to provide for any possible vacuum which may result from the termination of the state of emergency, the Government has decided to expand the security forces substantially.

I also want to use this opportunity to refer to the process of the removal of the so-called stumbling blocks in the way of negotiation.

The announcement which I have made today addresses one of the most important issues constantly raised inside and outside South Africa.

I should like to emphasize that the Government's decision has nothing to do with pressure from any quarter or with any wish to gain political capital. We do not, and have never, regarded the state of emergency as a political pawn.

None the less, the net result of the lifting of the state of emergency is that one of the main stumbling blocks has been removed.

As regards the other matters referred to in the Groote Schuur Minute I would like to state the following:

Further to the Groote Schuur Minute, a working group held discussions during the week of 14 May on various facets, including exiles and sentenced offenders. The participants then had to report back to their respective principals. The Government considered the report and is ready to implement it. The ANC has, however, requested that they be allowed time until 10 July 1990 to inform us of their reaction. The ANC, therefore, has to account for any delay in this regard.

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In the mean time I am, however, willing to release 48 people as a gesture, which I am empowered to do in terms of present powers embodied in the Constitution and the Prisons Act. Any further developments in this area will depend on implementation of the working group's report, which the Government is ready to do.

The Minister of Justice will deal with further details in this regard.

With regard to security legislation the Government is already looking at aspects of security legislation which could possibly inhibit the free conduct of peaceful politics and which, because of the reduction in the violent onslaught on the existing order, might no longer be necessary.

With regard to the so-called exiles. the Government has also started to act, notwithstanding the fact that we are waiting the reaction of the ANC to the report of the working group.

Temporary reprieve was granted a number of leaders of the ANC to come here to establish their peaceful political structures and activities. Communication lines between the South African Police and ANC leaders have in the mean time also been established so that violence and intimidation could be monitored and countered right down to local level.

In the sphere of the removal of discrimination the Government has also acted in terms of its policy to remove discrimination. The repeal of the Separate Amenities Act is now imminent as it has been tabled in Parliament. Early next year the Group Areas Act and Land Acts will receive attention.

This I can confidently state that the Government is adhering to the commitments which I have made since I became State President. We are not only talking. We are actually implementing in rapid succession the steps we have envisaged. The process of building a new South Africa has become irreversible. We are on the threshold of the real negotiation process and the time has come for other important role-players to do their bit.

In particular the ANC must now stop vacillating.

The time has now arrived for the ANC to state unequivocally where it stands on key issues. By its actions and its statements it must now give proof of its adherence to the principles of the Groote Schuur Minute.

It is true that, since the Groote Schuur Meeting, there has been evidence of the ANC (or at least most of its leaders) striving for the goals set out in it.

In terms of that minute the Government and the ANC agreed on a "common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter, as well as to stability and to a peaceful process of negotiation". On 2 June Mr. Mandela said that the leadership of the ANC was united in its rejection of all forms of violence among the people.

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In general their meetings and marches are also well controlled and it is clear that they are making an effort. The ANC, however, still has a long way to go. How can these positive aspects be reconciled with continuing support for the so-called "armed struggle"? How can they be reconciled with Mr. Mandela's statement on 2 June that:

> "The only sort of violence which we accept is organized violence in the form of armed activity which is properly controlled and where the target is carefully selected".

Exactly what targets has the ANC in mind?

- The same police force which protected him and his colleagues during their recent visit to Cape Town?
- The departments of the Ministers with whom he and his colleagues were discussing in a good spirit the need for peaceful solutions?
- Political opponents in the townships and in the homelands?

In the same way, the ANC should explain the contradictory positions which it has adopted with regard to the economy.

On 5 June Mr. Mandela told a meeting in Botswana that the ANC wished to bring about a non-racial democracy with a "powerful economy" in South Africa. How does the ANC reconcile this view with its continued calls for sanctions against South Africa? Surely it must realize that sanctions are harming the economic prospects of all South Africans? How does the ANC reconcile its continuing calls for the nationalization of important sectors of the economy with its professed wish to build a powerful economy? Is it not aware of the potentially disastrous implications of such irresponsible statements for future foreign investment in the Republic?

The time has come for the ANC to give a proper account of itself and of its true intentions. Its commitment to the Groote Schuur Minute must be reflected in all its future actions and statements.

The leaders of South Africa must now rise to the occasion.

In South Africa, southern Africa and in the world, obsolete policies and systems are being discarded. Irreconcilable differences are being overcome by negotiation. There is no longer any need or justification for violence to achieve political objectives.

History will demand from us to account for our willingness to rise above our own selfish particular interests and prejudices in order to build a new future.

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Conflict must end. Secret agendas must be scrapped. Let bygones be bygones. Let us forget real or imagined injustices of the past and create a new future for our children, free from mistrust, prejudice and hatred and domination. A future in which all of us will feel secure. A future free of discrimination or a struggle for domination. A future which will make all of us proud to be South Africans. But above all, a future to be determined by us - not dictated by outside interests.

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ANNEX VI

Statement by Nelson Mandela, Deputy President of the African National Congress, to the 641st meeting of the Special Committee against Apartheid on 22 June 1990

Your Excellency Ambassador Ibrahim Gambari, Permanent Representative of the Federal Republic of Nigeria and Chairman of the Special Committee against Apartheid; Your Excellency Mr. Joseph Garba, President of the General Assembly; Your Excellency Mr. Javier Perez de Cuellar, Secretary-General of the United Nations; Your Excellencies Permanent Representatives; Heads of Observer Missions; ladies and gentlemen, friends and comrades:

We feel especially honoured and privileged to have the possibility today to stand at this particular place, to speak to all of you, who represent the peoples of the world. We are most grateful to you, Mr. Chairman, the Special Committee against Apartheid, the Secretary-General and all Member States of the Organization for making it possible for us to be here.

The tragedy is that what has created the need for this gathering and made it seem natural that we must gather in this historic meeting place is the fact of the continuing commission of a crime against humanity. How much better it would have been if we were meeting to celebrate a victory in hand, a dream fulfilled, the triumph of justice over a tyrannical past, the realization of the vision enshrined in the United Nations Charter and the Universal Declaration of Human Rights.

It will for ever remain an indelible blight on human history that the apartheid crime ever occurred. Future generations will surely ask: what error was made that this system established itself in the wake of the adoption of a Universal Declaration of Human Rights?

It will for ever remain an accusation and a challenge to all men and women of conscience that it took as long as it has before all of us stood up to say enough is enough. Future generations will surely inquire: what error was made that this system established itself in the aftermath of the trials at Nuremberg?

These questions will arise because when this august body, the United Nations, first discussed the South African question, in 1946, it was discussing the issue of racism. They will be posed because the spur to the establishment of this Organization was the determination of all humanity never again to permit racist theory and practice to dragoon the world into the deathly clutches of war and genocide.

And yet, for all that, a racist tyranny established itself in our country. As they knew would happen, who refused to treat this matter as a quaint historical aberration, this tyranny has claimed its own conclave of victims. It has established its own brutal worth by the number of children it has killed and the orphans, the widows and widowers it can claim as its unique creation.

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And still it lives on, provoking strange and monstrous debates about the means that its victims are obliged to use to rid themselves of this intolerable scourge, eliciting arguments from those who choose not to act, that to do nothing must be accepted as the very essence of civilized opposition to tyranny.

We hold it as an inviolable principle that racism must be opposed by all the means that humanity has at its disposal. Wherever it occurs it has the potential to result in a systematic and comprehensive denial of human rights to those who are discriminated against. This is because all racism is inherently a challenge to human rights, because it denies the view that every human being is a person of equal worth with any other, because it treats entire peoples as sub-human.

This is why it was correct to characterize the apartheid system as a crime against humanity and appropriate that the international community should decide that it should be suppressed and punishment meted out against its perpetrators. We pay tribute to this Organization and its Member States for this and other decisions and actions it took to expunge this crime.

We also take this opportunity to salute the Special Committee against Apartheid, which has been and is a very important instrument in our struggle against the iniquitous and oppressive policies of the South African Government. We salute also the States that make up its membership, which have been unrelenting in their resolve to contribute everything they could to ensure that the world was mobilized to act against the apartheid system.

In this connection also, Sir, allow us to express a well-deserved tribute to your country, Nigeria, which you so ably represent, as did your predecessor in this important office, His Excellency Major-General Joseph Garba, current President of the General Assembly, under whose leadership the United Nations Declaration on South Africa was adopted by consensus at the sixteenth special session of the General Assembly last December.

That Declaration will go down in history as one of the most important documents in the struggle of the international community against apartheid. The fact that it was adopted by consensus was itself a telling blow against the apartheid system and a vital statement underlining the unity of the world community on the South African question and its resolution.

We look forward to the report that the Secretary-General of the United Nations will submit dealing with the question of the implementation of the Declaration in South Africa. This report will also be important to the extent that it will provide a basis for further decisions by the United Nations regarding future action on the question of apartheid.

What must, however, be clear is that the apartheid system remains in place. None of the principles laid down in the Declaration has been implemented to provide what the Declaration characterized as an internationally acceptable solution of the South African question. Similarly, the profound and irreversible changes which the Declaration visualized have not yet occurred.

The conclusion from these observations would seem clear to us. It is that nothing which has happened in South Africa calls for a revision of the positions that this Organization has taken in its struggle against apartheid. We therefore strongly urge that there should be no relaxation of existing measures. The sanctions that have been imposed by the United Nations and by individual Governments should remain in place.

We also urge that the United Nations should do everything in its power to maintain the unity it achieved when it adopted the Declaration on South Africa last December. We therefore hope that all Member States will continue to act in concert so as not to create any situation in which those who are opposed to change in our country find encouragement to resist change, because some countries would have destroyed the consensus that has been achieved. In this regard, we take this opportunity once more to call on the countries of the European community, which are holding a summit meeting in a few days' time, themselves to remain faithful to the purposes of the Declaration to whose elaboration they were party and for which they voted.

At the initiative of ANC, the process has begun which could lead to a just political settlement in our country. At our well-known meeting in Cape Town, at the beginning of last month, we agreed with the South African Government on the removal of the obstacles to negotiations which are identified in the Declaration. The process of implementing that agreement has started, but as this distinguished gathering knows, a lot still remains to be done before we can say that a climate conducive to negotiations has been created.

We therefore still have some distance to travel before we undertake the further steps outlined in the Declaration, leading to negotiations for the adoption of a new, democratic constitution. The fact that a good beginning was made in Cape Town should not lead us to conclude that further progress is assured or that we will not have to confront major obstacles in future.

In this regard, we would like to reiterate what we have said before, that we believe that President de Klerk and his colleagues in the leadership of the ruling party are people of integrity. We are of the view that they will abide by decisions that are arrived at in the course of our discussions and negotiations. This, in itself, is an important victory of our common struggle because it is that struggle which has made the cost of maintaining the apartheid system too high and helped to convince the ruling group in our country that changes can no longer be resisted.

It is, however, also true that there are many among our white compatriots who are still committed to the maintenance of the evil system of white minority domination. Some are opposed because of their ideological adherence to racism. Others are resisting because they fear democratic majority rule. Some of these are armed and are to be found within the army and the police.

Outside of these State agencies, other whites are working at a feverish pace to establish paramilitary groups whose stated aim is the physical liquidation of ANC, its leadership and membership, as well as other persons or formations which

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these right-wing terrorists see as a threat to the continued existence of the system of white minority domination. We cannot afford to underestimate the threat that these defenders of a brutal and continuing reality pose to the whole process of working towards a just political settlement.

The ANC is determined to do everything in its power to ensure speedy movement forward towards the peaceful abolition of the apartheid system. To this end we are engaged in many initiatives within South Africa aimed at bringing into the process of negotiations all the people and the representative political formations of our country. We have to overcome the mistrust that exists on both sides and reinforce the understanding that the only victory we should all seek is the victory of the people as a whole and not the victory of one party over another.

It is obvious that none of these processes can be easy. We are, however, inspired by the experience of the people of Namibia and our comrades-in-arms of the South West Africa People's Organization (SWAPO), who also overcame the divisions and the mistrust generated by the apartheid system, carried out a peaceful political process within a relatively short period of time and are today a proud nation of independent people. We take this opportunity to salute the representatives of the Namibian people who are present in this Hall and acknowledge the debt we owe them for the contribution they have made to our own liberation.

We also salute the front-line States of southern Africa and the rest of our continent for their own enormous contribution to the struggle against apartheid, which has brought us to the point today when we can say that the victory of the struggle for a united, democratic and non-racial South Africa is within our grasp.

Tribute is also due to the non-aligned countries and Movement and the peoples of the rest of the world for their own sterling efforts in pursuit of the common cause. What we must once more urge is that all these forces should maintain their unity around the perspectives contained in the United Nations and Harare Declarations on South Africa. How fast we progress towards liberation will depend on how successful we are in our efforts to sustain that united resolve.

This is for us a moving moment because we know that as we stand here we are among friends and people of conscience. We know this because we know what you did over the decades to secure my release and the release of other South African political prisoners from Pretoria's dungeons. We thank you most sincerely for this, especially because you have thus given us the opportunity to join hands with you in the search for a speedy solution to the enormous problems facing our country, our region and continent and humanity as a whole.

We know also that you harbour the hope that we will not relent or falter in the pursuit of that common vision which should result in the transformation of South Africa into a country of democracy, justice and peace. Standing before the nations of the world, we make that commitment, strengthened by the knowledge that you will fight on side by side with us until victory is achieved.

We also take this opportunity to extend warm greetings to all others who fight for their liberation and their human rights, including the peoples of Palestine and

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Western Sahara. We commend their struggles to you, convinced that we are all moved by the fact that freedom is indivisible, convinced that the denial of the rights of one diminishes the freedom of others.

We thank you for your kind invitation to us to address this gathering and for the opportunity it has given us to pay homage to you all: to the Secretary-General, to the President of the General Assembly, to the Special Committee against *Apartheid* and to the United Nations itself for the work that has been done to end the *apartheid* crime against humanity.

The distance we still have to travel is not long. Let us travel it together. Let us, by our joint actions, vindicate the purposes for which this Organization was established and create a situation wherein its Charter and the Universal Declaration of Human Rights will become part of the body of law on which will be based the political and social order of a new South Africa. Our common victory is assured.

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ANNEX VII

Declaration on Apartheid and its Destructive Consequences in Southern Africa

We, the States Members of the United Nations,

Assembled at the sixteenth special session of the General Assembly, a special session on apartheid and its destructive consequences in southern Africa, guided by the fundamental and universal principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights, [a] in the context of our efforts to establish peace throughout the world by ending all conflicts through negotiations, and desirous of making serious efforts to bring an end to the unacceptable situation prevailing in southern Africa, which is a result of the policies and practices of apartheid, through negotiations based on the principle of justice and peace for all:

Reaffirming our conviction, which history confirms, that where colonial and racial domination or apartheid exist, there can be neither peace nor justice,

Reiterating, accordingly, that while the apartheid system in South Africa persists, the peoples of Africa as a whole cannot achieve the fundamental objectives of justice, human dignity and peace which are both crucial in themselves and fundamental to the stability and development of the continent,

Recognizing that, with regard to southern Africa, the entire world is vitally interested that the processes in which that region is involved, leading to the genuine national independence of Namibia and peace in Angola and Mozambique, should succeed in the shortest possible time, and equally recognizing that the world is deeply concerned that destabilization by South Africa of the countries of the region, whether through direct aggression, sponsorship of surrogates, economic subversion or other means, is unacceptable in all its forms and must not occur,

Also recognizing the reality that permanent peace and stability in southern Africa can only be achieved when the system of apartheid in South Africa has been eradicated and South Africa has been transformed into a united, democratic and non-racial country, and therefore reiterating that all the necessary measures should be adopted now to bring a speedy end to the apartheid system in the interest of all the people of southern Africa, the continent and the world at large,

Believing that, as a result of the legitimate struggle of the South African people for the elimination of apartheid, and of international pressure against that system, as well as global efforts to resolve regional conflicts, possibilities exist for further movement towards the resolution of the problems facing the people of South Africa,

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[a] Resolution 217 A (III).

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Reaffirming the right of all peoples, including the people of South Africa, to determine their own destiny and to work out for themselves the institutions and the system of government under which they will, by general consent, live and work together to build a harmonious society, and remaining committed to doing everything possible and necessary to assist the people of South Africa, in such ways as they may, through their genuine representatives, determine to achieve this objective,

Making these commitments because we believe that all people are equal and have equal rights to human dignity and respect, regardless of colour, race, sex or creed, that all men and women have the right and duty to participate in their own government, as equal members of society, and that no individual or group of individuals has any right to govern others without their democratic consent, and reiterating that the apartheid system violates all these fundamental and universal principles,

Affirming that apartheid, characterized as a crime against the conscience and dignity of mankind, is responsible for the death of countless numbers of people in South Africa, has sought to dehumanize entire peoples and has imposed a brutal war on the region of southern Africa, which has resulted in untold loss of life, destruction of property and massive displacement of innocent men, women and children and which is a scourge and affront to humanity that must be fought and eradicated in its totality,

Therefore we support and continue to support all those in South Africa who pursue this noble objective. We believe this to be our duty, carried out in the interest of all humanity,

While extending this support to those who strive for a non-racial and democratic society in South Africa, a point on which no compromise is possible, we have repeatedly expressed our objective of a solution arrived at by peaceful means; we note that the people of South Africa, and their liberation movements who felt compelled to take up arms, have also upheld their preference for this position for many decades and continue to do so,

Welcoming the Declaration of the Ad-Hoc Committee of the Organization of African Unity on Southern Africa on the question of South Africa, adopted at Harare on 21 August 1989, b/ and subsequently endorsed by the Heads of State or Government of Non-Aligned Countries at their Ninth Conference, held at Belgrade from 4 to 7 September 1989, c/ as a reaffirmation of readiness to resolve the problems of South Africa through negotiations. The Declaration is consistent with the positions contained in the Lusaka Manifesto d/ of two decades ago, in particular

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b/ A/44/697, annex.

c/ See A/44/551-S/20870, annex.

d/ See Official Records of the General Assembly, Twenty-fourth Session, Annexes, agenda item 106, document A/7754.

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regarding the preference of the African people for peaceful change, and takes into account the changes that have taken place in southern Africa since then. The Declaration constitutes a new challenge to the Pretoria régime to join in the noble efforts to end the apartheid system, an objective to which the United Nations has always been committed,

Noting with appreciation that the Commonwealth Heads of Government, at their meeting held at Kuala Lumpur from 18 to 24 October 1989, noted with satisfaction the strong preference for the path of negotiated and peaceful settlement inherent in the Declaration adopted at Harare on 21 August 1989, and considered what further steps they might take to advance the prospects for negotiations, e/

Also noting with appreciation that the Third Francophone Conference of Heads of State and Government, held at Dakar from 24 to 26 May 1989, likewise called for negotiations between Pretoria and representatives of the majority of the people with a view to the establishment of a democratic and egalitarian system in South Africa,

Consequently, we shall continue to do everything in our power to increase support for the legitimate struggle of the South African people, including maintaining international pressure against the system of apartheid until that system is ended and South Africa is transformed into a united, democratic and non-racial country, with justice and security for all its citizens,

In keeping with this solemn resolve, and responding directly to the wishes of the majority of the people of South Africa, we publicly pledge ourselves to the positions contained hereunder, convinced that their implementation will lead to a speedy end of the apartheid system and heralding the dawn of a new era of peace for all the peoples of Africa, in a continent finally free from racism, white minority rule and colonial domination,

Declare as follows:

1. A conjuncture of circumstances exists, which, if there is a demonstrable readiness on the part of the South African régime to engage in negotiations genuinely and seriously, given the repeated expression of the majority of the people of South Africa of their long-standing preference to arrive at a political settlement, could create the possibility to end apartheid through negotiations.

2. We would therefore encourage the people of South Africa, as part of their legitimate struggle, to join together to negotiate an end to the apartheid system and agree on all the measures that are necessary to transform their country into a non-racial democracy. We support the position held by the majority of the people of South Africa that these objectives, and not the amendment or reform of the apartheid system, should be the goals of the negotiations.

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e/ See A/44/672-S/20914.

3. We are at one with the people of South Africa that the outcome of such a process should be a new constitutional order determined by them and based on the Charter of the United Nations and the Universal Declaration of Human Rights. We therefore hold the following fundamental principles to be of importance:

(*a*) South Africa shall become a united, non-racial and democratic State;

(*b*) All its people shall enjoy common and equal citizenship and nationality, regardless of race, colour, sex or creed;

(*c*) All its people shall have the right to participate in the government and administration of the country on the basis of universal, equal suffrage, under a non-racial voters' roll, and by secret ballot, in a united and non-fragmented South Africa;

(*d*) All shall have the right to form and join any political party of their choice, provided that this is not in furtherance of racism;

(*e*) All shall enjoy universally recognized human rights, freedoms and civil liberties, protected under an entrenched bill of rights;

(*f*) South Africa shall have a legal system that will guarantee equality of all before the law;

(*g*) South Africa shall have an independent and non-racial judiciary;

(*h*) There shall be created an economic order that will promote and advance the well-being of all South Africans;

(*i*) A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship and mutually beneficial co-operation with all peoples.

4. We believe that acceptance of these fundamental principles could constitute the basis for an internationally acceptable solution that will enable South Africa to take its rightful place as an equal partner among the world community of nations.

A. Climate for negotiations

5. We believe that it is essential that the necessary climate be created for negotiations. There is an urgent need to respond positively to this universally acclaimed demand and thus create this climate.

6. Accordingly, the present South African régime should, at the least:

(*a*) Release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them;

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(b) Lift all bans and restrictions on all proscribed and restricted organizations and persons;

(c) Remove all troops from the townships;

(d) End the state of emergency and repeal all legislation, such as the Internal Security Act, designed to circumscribe political activity;

(e) Cease all political trials and political executions.

7. These measures would help create the necessary climate in which free political discussion can take place - an essential condition to ensure that the people themselves participate in the process of remaking their country.

B. Guidelines to the process of negotiations

8. We are of the view that the parties concerned should, in the context of the necessary climate, negotiate the future of their country and its people in good faith and in an atmosphere which, by mutual agreement between the liberation movements and the South African régime, would be free of violence. The process could commence along the following guidelines:

(a) Agreement on the mechanism for the drawing up of a new constitution, based on, among others, the principles enunciated above, and the basis for its adoption;

(b) Agreement on the role to be played by the international community in ensuring a successful transition to a democratic order;

(c) Agreed transitional arrangements and modalities for the process of the drawing up and adoption of a new constitution, and for the transition to a democratic order, including the holding of elections.

C. Programme of action

9. In pursuance of the objectives stated in this Declaration, we hereby decide:

(a) To remain seized of the issue of a political resolution of the South African question;

(b) To step up all-round support for the opponents of apartheid and to campaign internationally in pursuance of this objective;

(c) To use concerted and effective measures, including the full observance by all countries of the mandatory arms embargo, aimed at applying pressure to ensure a speedy end to apartheid;

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(d) To ensure that the international community does not relax existing measures aimed at encouraging the South African régime to eradicate apartheid until there is clear evidence of profound and irreversible changes, bearing in mind the objectives of this Declaration;

(e) To render all possible assistance to the front-line and neighbouring States to enable them: to rebuild their economies, which have been adversely affected by South Africa's acts of aggression and destabilization; to withstand any further such acts; and to continue to support the peoples of Namibia and South Africa;

(f) To extend such assistance to the Governments of Angola and Mozambique as they may request in order to secure peace for their peoples, and to encourage and support peace initiatives undertaken by the Governments of Angola and Mozambique aimed at bringing about peace and normalization of life in their countries;

(g) The new South Africa shall, upon adoption of the new constitution, participate fully in relevant organs and specialized agencies of the United Nations.

10. We request the Secretary-General to transmit copies of the present Declaration to the South African Government and the representatives of the oppressed people of South Africa and also request the Secretary-General to prepare a report and submit it to the General Assembly by 1 July 1990 on the progress made in the implementation of the present Declaration.

UNITED
NATIONS

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General Assembly

Distr.
GENERAL

A/44/960/Add.1
18 July 1990

ORIGINAL: ENGLISH

Forty-fourth session
Agenda item 28

POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa

Report of the Secretary-General

Addendum

ANNEX II

Information provided by Governments relating to the progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa

NEW ZEALAND

[Original: English]

NEW ZEALAND ASSISTANCE TO SOUTHERN AFRICA

Bilateral aid

1. New Zealand has had a bilateral aid programme to Africa for a number of years. It is concentrated on the long-term economic development (as opposed to short-term relief and rehabilitation) of the front-line and neighbouring States of southern Africa. In 1989/90 the allocation to the programme was NZ$ 1.4 million, comprising $1,125 million for projects and training, $125,000 for a Head of Mission Fund and $150,000 for the Southern African Development Co-ordination Conference (SADCC).

Projects and training

2. New Zealand is currently involved in bilateral projects in two southern African countries - Kenya and the United Republic of Tanzania. The main sectors in which New Zealand is involved are forestry and dairying.

3. As well as in-country project activities New Zealand offers training awards for Africans to study in New Zealand. In 1989 there were 55 students, from eight different (mainly southern) African countries studying in New Zealand under the aid programme. They study a variety of disciplines mostly related to the development needs of their countries.

Head of Mission Fund

4. The Head of Mission Fund is operated and administered by the New Zealand High Commission in Harare and supports small-scale development projects in the countries to which the post is accredited - Botswana, Kenya, the United Republic of Tanzania, Zambia and Zimbabwe.

SADCC

5. New Zealand makes a regular contribution ($US 100,000 yearly through 1986-1989) to the Southern African Development Co-ordination Conference (SADCC). SADCC's aim is to reduce member countries' dependence on South Africa.

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Nelson Mandela Scholarship

6. In 1988 New Zealand established the Nelson Mandela Scholarship. The Scholarship is awarded annually to an ANC nominee for tertiary study in New Zealand. In 1990 there are two Nelson Mandela scholars studying in New Zealand.

Multilateral assistance

7. In addition to its bilateral assistance programme, New Zealand has for many years contributed to multilateral programmes in Africa. Foremost among these is the International Development Association of the World Bank. Up to 50 per cent of New Zealand's contribution of $31.3 million to the eight replenishment of the Association (IDA 8) will be spent in the least developed countries of sub-Saharan Africa. A similar percentage of New Zealand's $36.5 million contribution to IDA 9 will also be spent in the region.

8. Two Commonwealth programmes that New Zealand supports are the Special Commonwealth Fund for Mozambique and the Nassau Fellowships Programme. The Special Commonwealth Fund for Mozambique was established in 1987 to provide technical assistance and training to Mozambican people. New Zealand was the first country to contribute to the Fund. It gave $250,000 in 1987/88; $50,000 in the 1989 transitional quarter and a further $50,000 in 1989/90. New Zealand is currently the fourth largest donor to the Mozambique Fund. The Commonwealth Nassau Fellowships scheme, launched at the 1985 Commonwealth Heads of Government meeting, has supported over 500 students from South Africa through courses in a wide range of skills. New Zealand has made a substantial contribution to the scheme, including $250,000 in 1986/87, $200,000 in 1987/88 and $100,000 in 1989.

9. New Zealand also contributes to several training programmes in southern Africa, including two United Nations trust funds set up to provide training for black students from South Africa and Namibia ($NZ 20,000 given to each Fund in 1989/90). Also, in 1989/90 New Zealand gave $NZ 40,000 to the United Nations Educational and Training Programme for Southern Africa.

Namibia

10. New Zealand for many years supported Namibian efforts to achieve independence. It underlined its support with financial contributions to the United Nations Trust Fund for Namibia. As well, when the United Nations plan for Namibian independence was implemented in April 1989 New Zealand provided a 32-member Police contingent to the United Nations Transition Assistance Group. A Defence contingent of 12 engineers also went to Namibia. Consideration is currently being given to future New Zealand development assistance to Namibia.

Other

11. In 1989 the Government made a financial contribution to the travel costs of a delegation of South African trade unionists who visited New Zealand. The Government also hosted a visit in 1989 by the prominent journalist and commentator on South Africa, Mr. Derek Ingram.

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Sanctions against South Africa

12. New Zealand has implemented a wide range of measures against South Africa. A summary of these measures is attached.

13. New Zealand has said that any consideration of a relaxation of existing sanctions would have to await evidence of clear and irreversible change.

SOUTH AFRICA: SANCTIONS: NEW ZEALAND MEASURES

14. New Zealand has given effect to all the measures against South Africa recommended by the Commonwealth and to all sanctions against South Africa the subject of Security Council resolutions, voluntary as well as mandatory.

Military/security

15. Security Council resolution 282 (1970) was implemented in New Zealand by the Customs Export Prohibition Order 1971, which banned the export to South Africa of arms, ammunition, vehicles and equipment for the use of the armed forces or paramilitary organizations and aircraft and spare parts for aircraft.

16. To comply fully with the terms of Security Council resolution 418 (1977), the United Nations Sanctions (South Africa) Regulations 1980 prohibited the export of weapons, ammunition, military vehicles and equipment, paramilitary police equipment and related materials of any type, including spare parts of any such goods; equipment and supplies used in the manufacture or maintenance of any of the goods specified; and aircraft and spare parts for aircraft. These regulations also prohibited the granting of any licence by companies registered in New Zealand for the manufacture or maintenance in South Africa of any of the goods specified.

17. As recommended by Security Council resolution 569 (1985), the scope of the arms embargo was on 22 October 1985 extended to include the export, directly and indirectly, of computer equipment; and, as recommended by Security Council resolution 591 (1986), on 21 April 1987 to include the export to South Africa of telecommunications and electronic equipment.

18. Security Council resolution 558 (1984) was implemented in New Zealand by the Customs Import Prohibition (Sanctions) Order 1985 which further extended the arms embargo to ban the import of arms, ammunition and military vehicles from South Africa.

19. New Zealand has no military co-operation with South Africa.

20. New Zealand has no involvement with South Africa in the field of nuclear goods, material and technology.

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Economic/commercial

21. By Cabinet direction of 22 October 1985 the following measures were applied:

(a) The import of gold krugerrands was prohibited;

(b) The Export Guarantee Office was directed to decline export guarantees for new business with South Africa;

(c) Government funding for the promotion of trade with South Africa was stopped;

(d) The Export Import Corporation was directed not to enter into contracts for the purchase of goods originating in South Africa.

22. At the request of the Minister of Energy on 15 November 1985, the oil companies operating in New Zealand agreed to respect a voluntary ban upon trade with South Africa in petroleum and petroleum related products.

23. In February 1986, the Tourist and Publicity Department was directed not to promote or sell tours perhaps having South Africa as their primary destination.

24. Following Cabinet direction on 18 August 1986 additional measures were taken:

(a) Air New Zealand's GSA agreement with South African Airways was terminated, as was the Railways Corporation reciprocal fares arrangement with South African Railways;

(b) The Inland Revenue Department was instructed to decline any South African proposal for a double taxation agreement;

(c) The Government Stores Board was directed not to enter into contracts or place orders for goods originating in South Africa;

(d) Departments were directed not to enter into contracts with majority owned South African companies;

(e) The Minister of Tourism urged private sector travel and related agencies not to promote tourism to South Africa;

(f) Banking institutions operating in New Zealand were advised that it would be contrary to government policy for them to make loans to the South African private or public sector.

25. Under the Customs Import Prohibitions (Sanctions) Order 1986 the importation of all items in chapters 1-24 of the New Zealand Tariff Code was banned. The ban upon krugerrands was extended under this order to include all other gold coins minted in South Africa.

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26. In addition to the items banned by the 1986 Order, the Customs Import Prohibitions (Sanctions) Order 1987 banned the import of coal, lignite, peat, coke and similar goods; uranium metal, compounds and ore; and iron and steel in their primary forms. This order also consolidated previous regulations restricting imports from South Africa.

27. There is no New Zealand investment in South Africa. The Government's opposition to such investment has been reaffirmed.

Diplomatic/cultural/scientific/sporting

28. New Zealand has not had diplomatic relations with South Africa since the closure of the South African Consulate-General in Wellington in 1985.

29. By Cabinet direction in April 1987 consular facilities in South Africa earlier provided by the British were withdrawn.

30. Cultural and scientific contact with South Africa is discouraged by the Government in accordance with the Nassau Accord.

31. Sporting contacts with South Africa are discouraged by the Government.
